

IN THE HIGH COURT OF MEGHALAYA
SHILLONG

Writ Petition No.149 of 2015

1. Shri Donald P Jyrwa,
C/o N Jyrwa,
R/o Nongrimmaw, Block A,
Behind DGAR, Laitumkhrach,
East Khasi Hills District,
Shillong-3, Meghalaya.

2. Shri Simon Marbaniang,
C/o R Marbaniang,
R/o Lower Lumparing, Laban,
East Khasi Hills District, Shillong-4,
Meghalaya.

... Petitioners

-Versus-

Chief Administrative Officer,
Rajiv Gandhi Indian Institute of Management,
Shillong.

... Respondent

B E F O R E

THE HON'BLE MR JUSTICE SR SEN

For the Petitioners : Mr. N Syngkon,
Advocate

For the respondent : Mr N Mozika,
Mr P Nongbri,
Advocates

Date of hearing : 29.09.2015

Date of Judgment and order : 29.09.2015

JUDGMENT AND ORDER (ORAL)

The petitioners' case in a nut shell is:

“That an advertisement dated 14th
November, 2013 was published by the Chief
Administrative Officer, Rajiv Gandhi Indian
Institute of Management in the Shillong Times

on 20th November, 2013. And the petitioners having requisite qualifications as per the advertisement dated 14th November, 2013 have applied for the said post of office assistant. That the petitioners have done well in the personal interview as the selection to the said post of Office assistant was conducted only on the basis of the personal interview.

That the petitioners states no result of the said interview was published anywhere and it is only through email and post the selected candidates were informed about their selection in the interview and as such the petitioners have received email from the management of the Rajiv Gandhi Indian Institute of Management, Shillong stating that they have been selected for the said post and offered the service on contract.

That immediately after receiving the email the petitioners have gone to meet the Management of the RGIIM and enquired about the appointment on contract basis. But, it was informed from the end of the Management that they will be regularized.

That on the assurance given from the Management RGIIM the petitioners had accepted the offer of the appointment and subsequently they have been provided with the appointment order on 8.10.2014 and 22.10.2014 respectively.

That it is stated herein that the petitioner no.1 was previously working in St Anthony's College, Shillong and petitioner no.2 was working in the Meghalaya Basin Development Authority, Deputy Commissioner's Office, East Khasi Hills District, Government of Meghalaya and both the petitioners in search of better future and better opportunities had resigned from the previous job and joined the RGIIM.

That the petitioners states herein that after joining of the service it came to their knowledge that all other candidates who have been selected as per the advertisement dated 14th November, 2013 were given regular post and also receiving salaries as per the pay scale in the advertisement which is much higher than the salaries received by the petitioners.

That the petitioners states that the said act on the part of the Management, RGIIM, Shillong is against the principles of natural justice and also violates the fundamental right guaranteed to the petitioners under the Constitution of India.

That the petitioners states that it is very much injustice which had been caused to the petitioners as all other candidates who have

been selected on the basis of the advertisement dated 14th November, 2013, are given a regular post and on the other hand only the petitioners had been denied from getting the regular post and the same pay thereof.

That the petitioners states that there is also lack of transparency in the process of recruitment as there was no result of the said selection which was ever published anywhere and it is only the selected candidates who were informed by correspondence like email and post.

That the petitioners states that on information received by way of RTI filed by one Smti Agnes Kharshiing, it transpires that among 6(six) candidates who have been given regular post, 5(five) of them are already serving in the Rajiv Gandhi Indian Institute of Management, Shillong which also creates reasonable doubt in the mind of the petitioners of not having a fair selection.

That the petitioners states that the advertisement dated 14th November, 2013 was open for all Indian candidates and the candidates from all over India had participated in the said selection process but surprisingly out of the total number of 8(eight) selected candidates, 5(five) candidates who had been given the regular post are candidates who are already serving in the Rajiv Gandhi Indian Institute of Management, Shillong, and not even one candidate from outside the State of Meghalaya was selected which also leads to a reasonable doubt in the mind of the petitioners of serious malpractices in the process of selection.

That after being selected as per the advertisement dated 14th November, 2013, it is very surprising to hear from the department that there is no vacancy on regular basis and that too when the advertisement does not specify the total number of post available.

That the petitioners' states that they have filed an application dated 9.4.2015 with a request to regularize their post of office assistant but the same went on vein without any fruitful result.

That the petitioner no.1 has further filed another letter dated 12th June 2015, intending to resign from the contractual post given if regularization of the post is not made as per advertisement.

That the petitioners states that if their post is not regularize then the great injustice will be caused to them and to their family members

who are dependent on them, as similarly situated persons were given the appointment on regular basis and in the pay scale as advertised in the advertisement dated 14th November, 2013.

That the petitioners humbly prays that there is no other alternative remedy left with the petitioners except to come before your Lordship for seeking directions to the department for regularizing their post.”

2. Heard Mr N Syngkon, learned counsel appearing for and on behalf of the petitioners Shri Donald P Jyrwa and Shri Simon Marbaniang, who submits that the said petitioners were appointed on contract basis vide Offer Of Appointment dated 28.08.2014 and accordingly they joined and are working till date. The term of the said contract is supposed to expire today i.e. 29.09.2015.

3. The contention of the petitioners’ counsel is that when the Advertisement was floated the number of vacancies was not mentioned and both the petitioners appeared in the list of successful candidates at serial Nos. 7 and 8, so they are apprehending that since their term expires today, they will be thrown out of their job. Hence, this instant writ petition.

4. On the other hand, Mr N Mozika, learned counsel who appeared along with the Chief Administrative Officer of the Rajiv Gandhi Indian Institute of Management, Shillong, Shri RC Saxana, submits that the term of the services of the petitioners have been extended for further one year w.e.f. today. He also produced two letters of extension on appointment dated 28.09.2015.

5. I have perused the said letters and it appears that their services have been extended for another one year from today. Therefore, I am of the view that the question of any stay does not

arise. Petitioners' counsel also agreed that if any further vacancy arises and the petitioners are considered as per rules; he has no objection to dispose of the instant writ petition.

6. After hearing the submissions advanced by the learned counsels for the parties and on perusal of the Extension of Appointment letters dated 28.09.2015, I am of the view that this matter can be disposed of. Accordingly, it is disposed of with a direction to the respondent that in case any vacancy arises in future the case of the petitioners must be considered on a priority basis as per the Rules.

7. With these observations and directions, this instant writ petition is allowed and disposed of.

8. Court master is directed to keep the Extension of Appointment letters dated 28.09.2015 in the file for future reference.

JUDGE

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