

W.P. (C) No. 423 of 2018

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

22-06-2018

[1] Heard Ms. Th. Babita, learned counsel appearing for the petitioner and Shri Y. Yangya, learned Government Advocate appearing for the State respondents.

[2] There are two main prayers in this writ petition – one, to issue a writ of Mandamus or any other appropriate writ or direction directing the respondents to issue appropriate order appointing the petitioner as the Assistant Professor in History in the Government Colleges and two, to direct the respondents to issue an appointment order in favour of the petitioner as the Assistant Professor in History with effect from the date from which appointments have been given to those who are recommended along with the petitioner pursuant to the Notification dated 06-11-2017.

[3] The facts of the case as narrated in this writ petition, are that the Manipur Public Service Commission (hereinafter referred to as the “MPSC”) issued an Advertisement dated 15-11-2014 for appointment of 280 Assistant Professors in 28 disciplines/subjects, out of which 15 (fifteen) posts were earmarked for the History subject.

[4] Being eligible for appointment to the post of Assistant Professor in History, the petitioner applied for the said post and accordingly, Admit Card was issued in his favour notifying that Screening Test be held on 27-10-2015. The result of the Screening Test was declared on 03-12-2015 wherein the name of the petitioner was found at Sl. No. 31. Interview/Viva-

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Voce was held from 11th to 9th January, 2016 and 30th October to 4th November, 2017.

[5] Before the process of recruitment being concluded, some candidates/persons approached the Hon'ble High Court by way of various writ petitions questioning the reservation made for different categories and this Court, vide its common judgment and order dated 11-01-2017, directed the State Government to restrict the reservation to 50% of the total posts. Accordingly, the number of seats for the Un-reserved had increased to 7 in respect of the subject of History which compelled the MPSC to notify the additional number of candidates who would be called for Interview.

[6] The MPSC published the list of candidates recommended for appointment against the posts of Assistant Professor in different subjects and as per the said Notification, the MPSC recommended 14 (fourteen) candidates as against 15 (fifteen) posts for the subject in History, wherein the name of the petitioner was found to have been recommended at Sl. No. 14 as against the posts reserved for the OBC(M). In continuation of the said Notification dated 06-11-2017, the MPSC issued another Notification dated 14-11-2017 publishing the Merit List of all the candidates who appeared in the Interview.

[7] Although the petitioner having been recommended at Sl. No. 14, no Offer Form' nor" Appointment Order' was issued in his favour. The petitioner, on enquiry, came to know that in a writ petition being W.P.(C) No. 920 of 2017 filed by Sapam Jasowanta Singh, whose name was at Sl. No. 20, this Court passed an interim order dated 06-12-2017 directing the State respondents to earmark/reserve one seat in respect of

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Assistant Professor in History and not to fill up the same without the leave of the Court, if not already filled up. Even after the said interim order being passed by this Court, the State Government issued appointment orders dated 12-01-2018 in respect of 12 (twelve) candidates and an order in respect of Mr. Nungchim Christopher on 27-03-2018.

[8] The instant writ petition has been filed by the petitioner on various grounds that although there was 15 (fifteen) vacancies, only 14 (fourteen) candidates had been recommended for appointment as Assistant Professors in History; that there is still a vacancy for the post of Assistant Professor in History against Un-reserved category as the same has been vacated by Susma Sharma Gurumayum; that the interim order dated 06-12-2017 passed by this Court did not say that the post to be given to the petitioner, be reserved/ earmarked for the petitioner in writ petition being W.P. (C) No. 920 of 2017 and the act of the State respondents by not issuing an appointment order in favour of the petitioner, while appointment orders have been issued in favour of 13 (thirteen) other candidates, is arbitrary, whimsical and discriminatory being violative of article 14 of the Constitution.

[9] Despite opportunities being granted to the State respondents, no counter was filed and since no counter has been filed on behalf of the State respondents, the averments made in the writ petition shall be deemed to have been admitted by them in terms of a catena of decisions rendered by the Hon'ble Supreme Court.

[10] During the course of hearing, Shri Y. Ashang, learned Govt. Advocate submits that the recommendation of the MPSC as regards the appointment of Assistant Professors

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in History, has been accepted and appointment orders have been issued to which Mr. Th. Babita, learned counsel appearing for the petitioner submits that since the recommendation of the MPSC has been accepted, there is no reason as to why the petitioner shall not be appointed as the Assistant Professor in History. Her contention has some force. In W.P.(C) No. 920 of 2017, this Court has not passed any order directing the State respondents not to issue appointment order in favour of the petitioner herein and moreover, the petitioner has been recommended for appointment against the posts reserved for the OBC(M) while that of the petitioner in W.P.(C) No. 920 of 2017 is against the Un-reserved posts. The State respondents have failed to provide any reason as to why the appointment of the petitioner has been withheld by them, which is unreasonable.

[11] In view of the above, the instant writ petition deserves to be allowed and accordingly, the same is allowed with the direction that the State respondents shall issue an appointment order in favour of the petitioner within a period of 15 days from the date of receipt of a copy of this order and the appointment order so issued by the State respondents shall be given effect from the date on which 13 (thirteen) other candidates have been given appointment. There shall be no order as to costs.

JUDGE

Devananda