

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP (C) No.190/2017

Date of Order: 31.07.2018

Union of India & ors

Vs.

Shri Moawati

**Coram:**

**Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice**  
**Hon'ble Mr. Justice S.R. Sen, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. R Deb Nath, Adv

For the Respondent(s) : None for the respondent

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: No

**Per Mohammad Yaqoob Mir, 'CJ'**

1. Dissatisfied with the order dated 08.12.2015 passed by the Central Administrative Tribunal, Guwahati Bench, instant petition has been filed seeking quashment of the same. Despite service respondent has not chosen to appear.

2. The centre of controversy is, as to whether, promotion of the respondent to the post of "Deputy Controller of Stores" was required to be considered as per the Recruitment Rules of 1980 or the Recruitment Rules of 2013, and as to whether any such vacancy existed in the year 2011 for promotion.

3. The learned Tribunal has directed to consider promotion of the respondent to the post of "Deputy Controller of Stores" as per the Recruitment Rules of 1980 instead of revised Recruitment Rules of 2013.

4. The feeder cadre post for promotion to the post of "Deputy Controller of Stores", as per the Recruitment Rules of 1980 was the post of "Stores Officer" with 8 years regular service in the grade. The said Rules of 1980 did not prescribe any special educational qualification to be possessed by the "Stores Officer" for promotion.

5. It is specifically pleaded by the petitioners that the respondent had joined Geological Survey of India as “Store Superintendent (Technical)” on 14.07.1995. He was promoted to the post of “Stores Officer” on 15.11.2000. Subsequently in the year 2002, 10 posts of Stores Manager were sanctioned. The respondent including 9 other Stores Officers in order of seniority were adjusted against the said posts in the scale of Rs.7500-12000/- w.e.f. 21.03.2003 and then promoted on regular basis w.e.f. 01.11.2004.

6. Schedule Appended to the Recruitment Rules of 1967 was amended in the year 1980, the post of “Stores Officer” was included therein as a feeding cadre for promotion to the post of “Deputy Controller of Stores”. Whereas, post of “Store Manager” has been included in the Schedule Appended to the Rules of 2013, as a feeder cadre for promotion to the post of Deputy Controller of Stores with certain qualifications mentioned therein.

7. The vacancy of “Deputy Controller of Stores” according to the respondent had become available in the year 2011. The respondent claimed for being promoted to the said post which has been declined on the grounds that (i) there was no such vacancy (ii) even otherwise he did not satisfy the criteria as prescribed under the Ministry of Mines, Geological Survey of India, Group A, B and C posts, Asset Procurement and Management Stream, Recruitment Rules, 2013.

8. The respondent claimed to be considered for promotion to the post of Deputy Controller of Stores as per the Geological Survey of India (Group A and B posts) Recruitment (Second Amendment) Rules, 1980, in terms whereof, he was required to possess only 8 years of regular service in the grade.

9. The learned Tribunal has quoted para 3.13 of the O.M. dated 31.12.2010 issued by the DOP&T under the heading “Retention of Existing Eligibility Service” in Part-III as under:-

“Where the eligibility service for promotion prescribed in the existing rules is being enhanced (to be in conformity with the guidelines issues by this Department) and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis, a note to the effect that the eligibility service shall

continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules, could be included in the revised rules.”

10. The learned Tribunal has observed that the said para 3.13 clearly suggest its applicability precisely prospectively and not retrospectively. Therefore, the Recruitment Rules of 1980 would govern the promotion of the respondent to the post of “Deputy Controller of Stores”.

11. It is and it was the positive stand of the petitioners that as per the Recruitment Rules of 1980, the “Stores Manager” post was not a feeder cadre post for promotion to the post of “Deputy Controller of Stores”. It is only in terms of Recruitment Rules of 2013, “the Stores Manager” has been shown as a feeder cadre post for promotion to the post of “Deputy Controller of Stores”. The learned Tribunal has mainly focused on the question of prospective application of the Rules of 2013. While noticing that the vacancy of “Deputy Controller of Stores” occurred in the year 2011 observed that the respondent should have been considered in accordance with the Rules of 1980 which were in vogue.

12. Learned counsel for the petitioners submitted that the position of the Rules of 1980 and Rules of 2013 regarding feeder cadre for promotion to the post of “Deputy Controller of Stores” has escaped the attention of the learned Tribunal. The prospective or retrospective application of the Rules of 2013 even otherwise has no relevance.

13. For appreciating the controversy in its right perspective and for proper adjudication, it shall be quite relevant to quote as to what was and is the position regarding feeder cadre for promotion to the post of “Deputy Controller of Stores” as per 1980 Rules and as per 2013 Rules.

14. The Geological Survey of India (Group A and B posts) Recruitment (Second Amendment) Rules, 1980, notified vide G.R.R.715 dated 19.06.1980 provides for amendment in the Schedule to the Geological Survey of India (Group A and B posts) Recruitment Rules, 1967. For serial number 55 relating to the post of “Deputy Controller of Stores”, and entries related thereto, the serial number and entries have been substituted. As per column 11, feeder cadre for promotion to the post of Deputy Controller of Stores is shown as under:-

“Stores Officer” with eight years regular service in the grade.”

15. The “Stores Manager” posts were created in the year 2002, therefore, could not figure in the Schedule of 1980 Rules as a feeder cadre for promotion to the post of “Deputy Controller of Stores”.

16. With the creation, of the posts of, “Stores Manager” in the year 2002, the Schedule should have been amended so as to include the post of “Stores Manager” in the cadre of posts, which did not happen but “Stores Officers” including the respondent in order of their seniority were adjusted against the created 10 posts of “Store Manager.”

17. The negligence be at any level in not updating the Schedule as to include the post of “Stores Manager” in the cadre post, cannot be attributed to the respondent. Such negligence has given rise to an anomaly i.e. “Stores Manager” in a cadre, is above the post of “Stores Officer” and below “Deputy Controller of Stores”. For “Stores Officer” next promotion has to be to the post of “Stores Manager”, by not amending the Schedule Appended to the Rules of 1980, “Stores Officer” continued to be a feeder post for promotion to the post of “Deputy Controller of Stores”.

18. The aforesaid anomalous situation apart, in the instant petition, it is specifically pleaded that as against three vacancies (promotional quota) (Gen =2 and SC=1) as were available in the year 2009-2010, “Stores Manager” including the respondent were considered by the Departmental Promotion Committee (DPC), respondent was placed at Srl.No.6. Shri Amal Kumar Roy and Shri D.M. Bhattacharjee in order of seniority were promoted w.e.f. 26.02.2010 and 24.02.2010 respectively. It is also stated that there was no eligible candidate from SC category, said post was carried forward for the year 2010-2011. The DPC held on 06.08.2011, recommended Shri Ashim Kumar Sarkar (SC) as such was promoted to the said post of “Deputy Controller of Stores”. Further, it is also specifically pleaded in the instant petition that during the years 2010-2011, 2011-2012 and 2012-2013, there was no other vacancy of Deputy Controller of Stores available for promotion.

19. It is the contention of the learned counsel for the petitioners that the observation of the learned Tribunal that vacancy occurred in the year

2011 is not correct. It was specifically pleaded that in the year 2009-2010, the Departmental Promotion Committee met for assessing the candidates for three vacancies i.e. two for General Category and one for Scheduled Caste Category. One vacancy of Scheduled Caste category was carried forward for the year 2010-2011. In short, he would contend that no vacancy was available in the year 2011 against which the respondent could have been considered.

20. “The Ministry of Mines, Geological Survey of India, Group A, B and C posts, Asset Procurement and Management Stream, Recruitment Rules, 2013” as notified on 27.02.2013 vide G.S.R. 130(E), provides that in suppression of Geological Survey of India (Group A and B posts) Rules, 1967 as well as other Rules of 1968. In the Schedule Appended to the said Rules, feeder cadre, for promotion to the post of Deputy Controller of Stores in Column 11, is shown “Stores Manager in the pay band-2, Rs.9300-34800 plus grade pay of Rs.4800 with six years regular service or seven years combined service in the grade of Store Manager and Store Officer and with at least three years service in the grade of Store Manager”, whereas “Stores Officer” is shown as a feeder cadre for promotion to the post of “Stores Manager”.

21. The respondent not satisfying the eligibility criteria for promotion to the post of “Deputy Controller of Stores” in terms of 2013 Rules, has projected and claimed the benefit of 1980 Rules but in terms of 1980 Rules though post of Stores Manager as was held by him was not included as a feeder cadre post for promotion to the post of Deputy Controller of Stores, but still petitioners had considered the respondent against the two vacancies which were available in 2009-2010, but he could not make the grade, as he was placed at Srl.No.6 by the DPC.

22. The clear position of the Rules as stated above, has escaped the attention of the learned Tribunal, as a result whereof, the factual position that no post of “Deputy Controller of Stores” (promotional quota) was vacant in the year 2011 except for carried forward one post of S.C. category against which in pursuance to the recommendation of DPC held on 06.08.2011 Shri Ashim Kumar Sarkar (SC) has been promoted. Furthermore, in view of non-availability of vacancy of the post of

“Deputy Controller of Stores” in the years 2010-2011, 2011-2012 and 2012-2013 (promotional quota), the prospective or retrospective application of the Rules of 2013 pales into insignificance, direction issued by the learned Tribunal, to consider the case of the respondent for promotion to the post of Deputy Controller of Stores under the Recruitment Rules of 1980, instead of Recruitment Rules of 2013, is not well founded.

23. For the stated facts, reasons and the position of the Rules as referred to above, the order dated 08.12.2015 passed by the learned Tribunal being unsustainable is accordingly set aside. As a necessary corollary thereto, OA as was filed by the respondent before the Tribunal shall stand dismissed.

24. Copy of this order be sent to the learned Tribunal for information.

**(S.R. Sen)**  
**Judge**

**(Mohammad Yaqoob Mir)**  
**Chief Justice**

Meghalaya  
31.07.2018  
“*Lam* AR-PS”