

Writ Appeal No. 31 of 2021

Ref:- M.C (W.P (C)).No.7 of 2021 in

W.P(C).No.231 of 2020

Dr. Ningombam Minita Devi, aged about 50 yrs.,
w/o Ch.Jayanta Singh, presently working and functioning
as Statistician-cum-Assistant Professor of Department of Community
Medical, JNIMS, Porompat, and a resident of Soibam Leikai,
Ayangpalli Road, P.O. & P.S. Porompat, Imphal East-795005, Manipur.

..... Appellant

- Versus -

1. The Jawaharlal Nehru Institute of Medical Sciences (JNIMS),
represented by its Director at JNIMS,
Porompat, Imphal East, Manipur.
2. Dr. Nirendrakumar Singh, aged about 51 years,
S/o. H.Angousana Singh of Thangmeiband Leiranhanjaba
Leikai, P.O. Lamphel and P.S. Imphal, Imphal West District, Manipur.

..... Respondents

For the Appellant	::	Mr.N.Umakanta, Advocate
For Respondent No.1	::	Mr.S.Nepolean, GA
For Respondents No.2	::	Mr.H.S.Paonam, Senior Advocate

Date of Order	::	13.05.2021
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BEFORE

HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR

AND

HON'BLE MR.JUSTICE KH.NOBIN SINGH

The CJ (Oral):

[1] Heard Mr.N.Umakanta, learned counsel for the appellant,
Mr.S.Nepolean, learned Government Advocate, appearing for respondent No.1, and
Mr.H.S.Paonam, learned senior counsel, appearing for respondent No.2.

[2] The appellant is not a party to W.P(C) No.231 of 2020 from which the present appeal arises. However, she is the petitioner in W.P(C) No. 638 of 2017. Therein, by order dated 11.09.2017, a learned Judge of this Court had directed that the result of the DPC, if held, should not be declared without the leave of this Court. It appears that the DPC was thereafter held on 15.09.2017. While so, W.P(C) No. 231 of 2020 came to be filed by the second respondent herein and by order dated 18.05.2020 passed therein, a learned Judge of this Court directed that the posts of Associate Professor and Professor in the first respondent Institute, under the Timescale Promotion Scheme, should not be filled up. The first respondent Institute thereupon filed an application, in M.C.(W.P(C)) No.7 of 2021 in W.P(C) No. 231 of 2020, stating that the result of the DPC held on 15.09.2017 for promotion to the post of Assistant Professor in the Department of Community Medicine was kept in a sealed cover, because of the interim order dated 11.09.2017 passed W.P(C) No. 638 of 2017, due to which the *inter se* seniority in the cadres of Assistant Professor and Associate Professor in all departments of the first respondent Institute could not be completed and as such, the process for promotion under the Timescale Promotion Scheme Rules, 2020, could not be initiated. The first respondent Institute accordingly prayed that it may be permitted to declare the result of the aforesaid DPC as and when the judgment in W.P(C) No. 638 of 2017 was pronounced or it may be permitted to declare the result of the DPC, subject to the outcome of W.P(C) No. 638 of 2017.

[3] By the order under appeal dated 22.04.2021, the learned Judge disposed of the said miscellaneous case, modifying the interim order dated 11.09.2017 passed in W.P(C) No. 638 of 2017 and allowing the first respondent Institute to declare the result of the DPC held on 15.09.2017, subject to the outcome

of W.P(C) No.638 of 2017. Aggrieved thereby, the petitioner in the said writ petition preferred this appeal, upon being granted leave to do so.

[4] Significantly, W.P(C) No. 638 of 2017 was already reserved for judgment and no separate application was filed therein seeking modification of the interim order passed therein as long back as on 11.09.2017, even before the DPC was held. In effect, the interim order passed in the said writ petition filed by the appellant was modified behind her back and without notice to her. The order under appeal was therefore passed in violation of due procedure and also the principles of natural justice, as the appellant could not have been divested of the protection of the interim order secured by her long ago without even being given an opportunity of being heard. On this short ground, the order under appeal is set aside. M.C.(W.P(C)) No. 7 of 2021 in W.P(C) No. 231 of 2020 is restored to the file for consideration afresh on its own merits.

[5] The writ appeal is allowed to the extent indicated above.

No order as to costs.

JUDGE

CHIEF JUSTICE

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