



Serial No. 26
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 493 of 2022

Date of Decision: 05.09.2023

Shri. Lurmangkara Rympei & Ors. Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv. with
Mr. W.G.R. Mihsill, Adv.

For the Respondent(s) : Mr. K. Khan, AAG with
Mr. A. Kharwanlang, Addl. Sr. GA
(For R 1-6)
Mr. S. Chanda, Adv. vice
Mr. K. Paul, Sr. Adv. (For R 7).

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|-----|---|--------|
| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

Oral:

1. The writ petitioners, 6(six) in number are before this Court, seeking directions for consideration of their regularization in service by the respondents. The case as put up by the petitioners are that pursuant to an advertisement inviting applications from candidates for admission



into Post Graduate Diploma in Sericulture, the petitioners after appearing in the written test and personal interview were selected to undergo a training. On completion thereof, the petitioners were then appointed on temporary officiating basis to the Post of Reeling Foreman/Farm Manager/Sericulture Inspector with a prescribed pay scale.

2. It is noted that in the appointment order at the footnote, it has been provided that the appointee was requested to apply to the Secretary, MPSC as soon as the post against which they were serving was advertised for regularization. It has been contended that the petitioners have been serving since 2010, 2012 and 2014 respectively and have not been given any consideration for selection and regularization against the post which they are serving.

3. Mr. Philemon Nongbri, learned counsel for the petitioners submits that the post against which the petitioners were serving are presently lying vacant and there should be no hindrance on the part of the respondents to engage in the process of regularization through the MPSC for accommodating the petitioners by way of special recruitment. In support of his submissions, the learned counsel for the petitioners has referred to an order of this Court passed in WP(C) No. 53 of 2019, which he submits 2(two) similarly situated petitioners in



the same department, on the orders of this Court, the process through the MPSC was concluded and subsequently they were afforded appointment. It is finally submitted that the case being similarly situated and in view of the vacancy position in the department that appropriate orders be issued to direct the respondents to engage in the process for regularizing the petitioners against the vacant post.

4. Mr. K. Khan, learned AAG assisted by Mr. A. Kharwanlang, learned Addl. Sr. GA for the respondents No. 1-6, has submitted that there can be no legitimate expectation for regularization and further no directions can be issued for the same, inasmuch as, it is not a matter of right that the petitioners should be accommodated against the vacant posts, as prayed for. He further submits that the appointment to the said posts should be made by direct recruitment based on merit. He finally submits that no legally enforceable right has been made out by the writ petitioners to warrant any orders from this Court and that the writ petition should be dismissed.

5. Having heard the learned counsels for the parties, and noted the submissions, as also the materials on record, it is a fact that a mandamus cannot be issued to direct the respondents to regularize the services of the petitioners. However, in the present case, the circumstances are such that the writ petitioners, were appointed against



vacant sanctioned posts and were also afforded regular pay scale along with increments, which has all the trappings of regular employment, the case of the petitioners cannot be said to be absolutely without any merit. Also seen the order passed by this Court in WP(C) No. 53 of 2019, in that case however, it is seen that the department had issued a draft advertisement for regularization of services along with an approved list for Special Recruitment to the post of Weaving Inspector, which on inaction of the respondents, this Court on being approached by the petitioners, had issued directions for conclusion of the process as per the said draft advertisement. Though this case stands on a different footing, however, one fact that this Court cannot ignore and has to consider is the terms of appointment, especially the footnote in the appointment letter dated 18.03.2010, which is similar to the other appointment letters, the same for the sake of convenience is reproduced herein below.

GOVERNMENT OF MEGHALAYA
DIRECTORATE OF SERICULTURE AND WEAVING::
SHILLONG

ORDER

Dt. Shillong, the 18th March, 2010

NO. SW (E) 11/2008/132- Subject to discharge without Notice and without assigning any reason thereof the following Stipendiary Candidates who have successfully completed the post Graduate



Diploma in Sericulture. Sericulture Training from Central Tesar Research and Training Institute, Jharkhand, Ranchi in (Non-Mulberry) is hereby temporarily appointed on officiating basis as Reeling Foreman/Manager/Sericulture Inspector on the scale of pay of Rs.13100-3300-15410-EB—420-19190-580-25570/- p.m plus other allowances as admissible under the existing rules w.e.f. the actual date of joining.

<i>Sl. No.</i>	<i>Name of Persons</i>	<i>Name of the capacity in which the persons named in col.2 is actually appointed with name of the place in which posted</i>
<i>1.</i>	<i>2.</i>	<i>3.</i>
<i>1.</i>	<i>Shri. Chesterfield Suja, s/o (L) K. Pohsnem, C/O S. Myrboo, Nongpoh-Nongpdeng, P.O Rynjah, Shillong -793006.</i>	<i>Reeling Foreman, Adokgiri Vice Shri. A. rangad transferred.</i>
<i>2.</i>	<i>Smti. Alexander M. Sangma, D/O Shri E.S Marak, K.A Road, Lower Chandmary, West Garo Hills, Tura.</i>	<i>As Manager, Muga Seed farm Resubelpara vice Smti. R. Marbaniang transferred.</i>
<i>3.</i>	<i>Shri. Lurmangkara Rympei, S/o Smti S M Rympei, C/O S. Rympei, Nongmensong, Langkyrding, Meghalaya, Shilong-793001.</i>	<i>As Sericulture Inspector Resubelpara vice Smti. R. Marbaniang transferred.</i>

Sd/-

*Dr (Miss) A. Khonglam
Director,
Sericulture & Weaving,
Meghalaya, Shillong*

Memo No. SW(E) 11/2008/132-A

Dt. Shillong, the 18th March, 2010.

Copy to:-



1. *The Secretary, Meghalaya for information and necessary action.* *You are requested to apply to the Secretary MPSC, Shillong as soon as the post of the*
2. *Shri. C. Suja, s/o (L) K. Pohsnem, C/O S. Myrboo, Nongpoh-Nongpdeng, P.O Rynjah, Shillong-793006.* *Manager/Sericulture Inspector/Reeling Foreman is advertised by MPSC for regularization of your*
3. *Smti A.M. Sangma D/O Shri E.S Marak, K.A Road, Lower Chandmary, West Garo Hills, Tura* *appointment. The present officiating is hereby temporarily and unless you applied to Commission and recommended by*
4. *Shri. L. Rympei, S/o Smti S.m Rympei, C/O S. Rympei, Nongmensong, Langkyrding, Meghalaya, Shilong-793001.* *it for regular appointment to the post you are liable to be discharged at any time, You are requested to submit the any time, You are requested to submit the joining report along with medical fitness Certificate of fitness from Govt. Service Issued by Civil Surgeon.*
5. *The Development Resubelpara.* *Sericulture Officer, The date of joining of the above person should be intimated in due course.*
6. *The District Sericulture Officer, Tura*
7. *The Civil Surgeon Shillong/Tura*
8. *General Planning.*
9. *Office Order file.*

Sd/-

*Dr (Miss) A. Khonglam
Director,
Sericulture & Weaving,
Meghalaya, Shillong*

6. It is noted that in the appointment letter itself, the appointee/writ petitioner was requested to apply to the Secretary,



MPSC, as soon as the post was advertised for regularization of their appointment.

7. Looking into the situation of the petitioners, that is no doubt they are not possessing any legally enforceable right to seek regularization to the post, but however, in the considered view of this Court, their case deserves some consideration by the respondents, in view of the footnote that has appeared in their respective appointment letter.

8. Accordingly, this writ petition is disposed of with a direction that the respondents consider the case of the writ petitioners, by looking at the vacancy position in the department and to take steps in accordance with law to consider their regularization.

9. It is expected that the matter shall be considered as expeditiously as possible.

10. In terms of the directions as given, this petition stands closed and disposed of.

Judge

Meghalaya
05.09.2023
"D.Thabah-PS"