

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS.842-843 of 2019
(Arising out of S.L.P. (Civil) Nos. 36612-36613 of 2016)**

The State of Manipur & Anr. Appellants

Versus

**Takhelmayum Khelendro Meitei
& Ors.Respondents**

J U D G M E N T

L. NAGESWARA RAO, J.

Leave granted.

1. The High Court of Manipur allowed the Writ Petitions filed by the Respondents-herein and directed the declaration of the results relating to selection to the posts of Lineman conducted in the year 1999 within a period of three weeks. The process of appointment was directed to be completed within four weeks and the successful candidates were

directed to be adjusted against the vacancies notified for the posts of Junior System Assistants. Aggrieved thereby, the State of Manipur has filed the above Appeals.

2. The Department of Electricity, Government of Manipur initiated the process of selection for filling up the posts of Assistant Lineman in the Department of Electricity. Before the process could be completed, a complete ban on direct recruitment was imposed on 6th November, 1999. The declaration of results of DPC (Selections) already held was also frozen by the said order. According to the State Government, the ban was imposed in view of the financial stringency in the State.

3. The Respondents filed Writ Petition (Civil) No. 1040 of 2000 for a direction to the Appellant to declare the result of the DPC held from 19th August, 1999 to 13th September, 1999 for selection to the posts of Assistant Lineman. The Writ Petition was disposed of by the Imphal Bench of the Gauhati High Court on 11th August, 2000. The result of the selection in respect of 155 posts of Assistant Lineman conducted in the year 1999 was directed to be declared not later than one month after lifting of the ban. A policy decision was taken by the Appellant to downsize the strength of government employees to control the financial crisis in the State. The services of persons appointed on

direct recruitment, part-time, contract, *ad hoc*, substitute and casual basis since 1999 were terminated. No direct recruitment, permanent and *ad hoc* could be made till further orders. Results of DPCs which have not been announced were directed to be treated as cancelled.

4. Another Writ Petition was filed by some of the Respondents seeking declaration of the result of selection to the posts of Assistant Lineman contending that the ban on direct recruitment cannot be a ground for not declaring the results of the selection conducted in the year 1999. The High Court directed the announcement of the results of the DPC held between 19th August, 1999 to 13th September, 1999 to the posts of Assistant Linemen. The said direction was initially stayed by a Division Bench of the High Court in the Writ Appeal filed by the Appellant. Thereafter, the interim order of stay was vacated by a Division Bench of the High Court *vide* order dated 29th November, 2002. The said order was challenged by the Government and this Court directed the Appellant to furnish the list of selected candidates to the High Court in a sealed cover. Learned counsel appearing for the parties were given liberty to peruse it. With the said directions, the Civil Appeal was disposed of.

5. The Writ Appeal filed by the Government was disposed of on 19th

November, 2004 with an observation that the appointment shall be made strictly in order of the merit list prepared by the Selection Committee as and when the State decided to lift the ban and make appointments. As the said direction was found to be contrary to the order passed by this Court, the order dated 19th November, 2004 passed in Writ Appeal No.413 of 2004 was recalled at the behest of the Appellant.

6. Thereafter, the Appellant-State issued an advertisement for appointment to various posts including 29 posts of Assistant Lineman in the Electricity Department. The Writ Petition filed by the Respondents questioning the advertisement notifying 29 posts of Assistant Lineman was disposed of by the High Court with a direction to the State Government not to fill up 29 posts of Assistant Lineman without taking an appropriate decision in respect of the recruitment to 155 posts of Assistant Lineman which were advertised in the year 1999.

7. In the meanwhile, the Electricity Department was unbundled into two entities *i.e.* Manipur State Power Corporation Limited (MSPCL) and Manipur State Power Distribution Company Limited (MSPDCL). Manipur State Power Corporation Limited issued a notification inviting

applications from eligible candidates for appointment to the post of Junior Technical Assistants which according to the Respondents are equivalent to the post of Assistant Lineman. It is relevant to mention here that the minimum qualification for appointment as per the advertisement was 10th standard whereas in the year 1999 the minimum qualification required was 8th standard for appointment as Assistant Lineman. In the interim order passed in the Writ Petitions filed by the Respondents, the High Court directed the State Government not to fill up 56 posts of Junior Technical Assistants out of the 100 posts which were advertised. However, the advertisement notifying the selection to the posts of Junior Technical Assistants was withdrawn by the Government.

8. A fresh notification for recruitment to 680 posts at Grade-III and Grade-IV levels was issued by the Manipur State Power Corporation Limited. This advertisement included some posts of Junior System Assistant. As this advertisement was issued during the pendency of the Writ Petitions filed by the Respondents, they asserted their right for appointment in the advertised posts of Junior System Assistants. Although, the selection to the posts of Assistant Lineman in the year 1999 was to 155 posts, the present dispute is confined only to 58

Respondents who have filed two Writ Petitions by seeking declaration of the results of their selection in the year 1999. The High Court, by the impugned order, directed the declaration of the results within a period of three weeks and completion of the process of appointment within four weeks. The selected candidates were directed to be adjusted in the post of Junior System Assistants which were notified in the advertisement dated 11th May, 2016. The Appellant is aggrieved by the said directions issued by the High Court.

9. The High Court referred to the Manipur State Electricity (Reforms) Scheme, 2013, especially Clause 7, to hold that all proceedings pending against the Electricity Department shall not abate or be discontinued against the transferee. The High Court was of the view that since the litigation pertaining to the selections that were conducted in the year 1999 was still pending, the transferee entities *i.e.* Manipur State Power Corporation Limited (MSPCL) and Manipur State Power Distribution Company Limited (MSPDCL) have to discharge their obligations, if any. The High Court referred to several decisions of this Court to reiterate that the State is under no obligation to fill up the vacancies that were advertised, but proceeded to hold that the decision should be *bona fide*. According to the High Court,

there was no *bona fide* reason for the successor entities of the Electricity Department not to discharge the obligation of appointing candidates selected as Assistant Linemen in the year 1999. The High Court further observed that the process initiated in the year 1999 has not been scrapped. The Appellant was found at fault for not making appointments on the basis of the selections held in the year 1999, while proceeding with recruitment to the post of Junior Assistants and Assistants which are equivalent to Assistant Linemen. On the basis of such reasoning, the High Court directed the appointment of Respondents.

- 10.** The issues that arise for our consideration in this case are:
- (i) Whether the Respondents have any indefeasible right for appointment to the posts of Assistant Lineman on the basis of the selections made in the year 1999?
 - (ii) Whether the High Court could have issued a direction for appointment of the Respondents as Junior System Assistants in the posts advertised on 11th May, 2016?

11. In *Shankarsan Dash v. Union of India*¹, it was held that there is no indefeasible right for appointment merely because a candidate is found fit on the basis of a selection. Ordinarily the notification merely

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(1991) 3 SCC 47

amounts to an invitation to qualified candidates to apply for recruitment. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it was also held in the said judgment that the State does not have any license to act in an arbitrary manner and that the decision not to fill up the vacancies has to be taken *bona fide* for appropriate reasons. The High Court observed that there is no *bona fide* reason for the successor entities of the Electricity Department for not appointing the Respondents. Further, the High Court concluded that it was not the stand of the Appellant that the process of recruitment has been scrapped. The policy decision of the Government dated 19th March, 2001 cancelling all the selections that were made earlier and banning any further recruitment was part of the record which could not have been ignored by the High Court. There was sufficient justification for the Government of Manipur to ban recruitment. The Government was compelled to take such decision in view of the financial crisis. The said decision of the Government cannot be said to be arbitrary under any circumstances. The policy decision of the Government of Manipur dated 19th March, 2001 was *bona fide* and the Respondents cannot assert any right for appointment on the basis of

the selections conducted in the year 1999.

12. Even assuming that the successor entities of the Electricity Department have an obligation to defend the actions and decisions of the Electricity Department, it is relevant to note that the decision dated 19th March, 2001 of the Appellant cancelling the selections conducted before that date had not been questioned by the Respondents. In any event, the Respondents do not have a legal right to seek appointment to the posts of Assistant Lineman as the selections stood cancelled by the policy decision dated 19th March, 2001. We are unable to agree with the High Court's direction for appointment of the Respondents in the posts of Junior System Assistants which were advertised in 2016.

13. For the aforementioned reasons, the Appeals are allowed and the judgment of the High Court is set aside.

.....J.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

.....J.
[R. SUBHASH REDDY]

**New Delhi,
January 17, 2019.**