

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH
NAHARLAGUN

Appeal from
Writ Petition (Civil)

WA No... 02... (AP) 2011

Smti Yaku Ligo & 15 others

Appellant
Petitioner

-Versus-

The State of AP & 10 others

Respondent
Opposite Party

Counsel for the Appellant
Petitioner

MR K. Dabi

Counsel for the Respondent
Opposite Party

GA AP.

Noting by Officer or Advocate	Serial No.	Date	Office,note,reports,orders or Proceeding with signature
(1)	(2)	(3)	(4)

1. Smti Yapu Ligo F/A
District Hospital Aalo,
West Siang District,
Arunachal Pradesh.
2. Shri Tayum Kamum S/B
PHC Tirbin, P.O & P.S Tirbin
West Siang, Arunachal Pradesh
3. Shri Mogum Ori S/B
District Medical Officer's
Office, Aalo,
West Siang District,
Arunachal Pradesh.
4. Shri Taper Gadi, N/A
PHC Tirbin, P.O & P.S Tirbin
West Siang, Arunachal
Pradesh.
5. Shri Bola Gogoi S/B
CHC Likabali, P.O & P.S
Likabali, West Siang
District,
Arunachal Pradesh.
6. Shri Tadung Singlong
(Chowikidar)
District Hospital Aalo,

West Siang District,
Arunachal Pradesh.

7. Smti Yapu loya F/A
District Hospital Aalo,
West Siang District,
Arunachal Pradesh.

8. Smti Meena Puning F/A
PHC Monigaon
P.O & P.s Mechuka,
West Siang District,
Arunachal Pradesh.

9. Shri Tachuk Yajo M/A
District Hospital Aalo,
West Siang District,
Arunachal Pradesh.

10. Smti Yater Taga F/A
District Hospital Aalo,
West Siang District,
Arunachal Pradesh.

11. Shri Tapak Gadi N/a
PHC Nikte, P.O Nikte
West Siang District,
Arunachal Pradesh.

12. Tapi Kemi N/A
C.H.c Mechuka,
P.O & P.S Mechuka,
West Siang District,
Arunachal Pradesh.
13. Mrs Yakiam Taggu F/A
PHC Pessing,
Po & PS Rungong,
West Siang District,
Arunachal Pradesh.
14. Sri Marker Riram F/A
CHC Basar,
PO & PS Basar
West Siang District,
Arunachal Pradesh.
15. Sri Talut Gao F/A
CHC Rungong
PO & PS Rungong,
West Siang District,
Arunachal Pradesh.
16. Smti Kirsan Jini f/A
CHC Basar,
PO & PS Basar,
West Siang District,
Arunachal Pradesh.

C. Common Cause)

..... Appellants.

- V E R S U S -

1. The State of Arunachal Pradesh
Represented by the Chief Secretary, Govt. of A.P. Itanagar.
2. The Secretary, Health Service,
Govt. of A.P.
Itanagar.
3. The Director,
Health Service,
Govt. of A.P.
4. The District Medical Officer,
West Siang District, Aalo,
A.P.
5. The District Family Welfare Officer,
West Siang District, Aalo,
Arunachal Pradesh
(Chairman D.P.C)

6. The District Malaria and Leprosy Officer (DMLO)
West Siang District, Aalo,
A.P. (Member DPC)

7. The District surveillance Officer (DSO)
West Siang District, Aalo,
Arunachal Pradesh.

8. The Senior Medical Officer (SMO) SG District Medical Officer, Aalo, West Siang District, Arunachal Pradesh.

9. Sri Nyaba Lollen (Dresser)
C/o D.M.O. West Siang District, Aalo,
Arunachal Pradesh.

10. Sri Jumli Ori (Dresser)
C/o D.M.O. West Siang District, Aalo,
Arunachal Pradesh.

11. Sri I.B Limbu (Dresser)

C/o D.M.O. West Siang
District, Aalo,
Arunachal Pradesh.

.....Respondents/
Opposite Parties.

WA 02 (AP)/2011

**BEFORE
THE HON'BLE MR. JUSTICE I. A. ANSARI
THE HON'BLE MR. JUSTICE P. K. MUSAHARY**

05-01-2011

Heard Mr. M. Pertin, learned counsel for the appellants, and Ms. G. Deka, learned Additional Senior Government Advocate, Arunachal Pradesh, appearing for the State respondents.

By the impugned order, dated 03.07.2010, passed in WP(C) No.281(AP) of 2009, as a learned Single Judge of this Court has dismissed the writ petition made under Article 226 of the Constitution of India, by the present appellants, holding the writ petition devoid of merit, the appellants have preferred this appeal.

By making the writ petition, the appellants, altogether 16 in number, had sought for setting aside and quashing the proceedings of the departmental promotion committee (in short, the DPC) held on 4.7.2008 and the order, dated 26.11.2008, issued by the Director of Health Services, Government of Arunachal Pradesh, promoting the private respondents in the writ petition, namely, respondent Nos.9, 10 and 11 herein, to the posts of Dresser. By their writ application, the appellants had also sought for a

direction to be issued to the State respondents to hold a review DPC.

The selection and appointment of the private respondents was challenged, in the writ petition, by the present appellants, on the ground that the writ petitioners-appellants were far senior to the private respondents in the service and though in terms of the Recruitment Rules, the selection ought to have been made, on the basis of seniority, the DPC selected the private respondents by ignoring seniority and by resorting to a method of picking up and choosing. In short, the writ petition rested on the ground that the selection, in question, ought to have been made on the basis of seniority and since seniority had not been made the criterion for making selection, the selection was bad.

Referring to the relevant Recruitment Rules, the learned Single Judge pointed out that since the Recruitment Rules provide for recruitment to the post of Dresser by selection, it would not be appropriate to hold that the recruitment ought to have been made on the basis of seniority. It was also pointed out by the learned Single Judge that since there was no specific guidelines or executive instructions issued by the Government prescribing the method of selection, the DPC was free to holding the selection either on the basis of seniority-cum-

merit or merit-cum-seniority. The learned Single Judge has further observed that even on merit, the private respondents were found to be deserving candidates. For the reasons, which were so assigned, the writ petition, as already indicated above, was dismissed.

It is, now, sought to be contended, on behalf of the appellants, that since the relevant Recruitment Rules provide for recruitment to the post of Dresser by selection, the Government ought to have issued, at least, executive instructions prescribing the principle governing the method of selection, namely, whether the selection should be based on seniority-cum-merit or on merit-cum-seniority or on merit alone. Undoubtedly, the submissions made on behalf of the appellants is attractive; but this was not the foundation of their case in the writ petition. This apart, neither the omission, on the part of the Government, to issue appropriate executive instructions prescribing the methodology of selection for the purpose of making recruitment nor the Recruitment Rules were under challenge in the writ petition. We, therefore, refrain ourselves from making any comment on the correctness of the submissions advanced on behalf of the appellants. Suffice it to point out here that on the basis of the case, which had been projected by the writ

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petitioners-appellants, the writ petition could not have, but been dismissed and that is precisely what has been done in the present case inasmuch as the relevant Rules provide for appointment to post of Dresser by selection, which means that seniority could not have been made the sole basis of selection and this is what the learned Single Judge has pointed out.

We, therefore, do not admit this appeal. The appeal is dismissed. We, however, leave the appellants at liberty to approach this Court with appropriate application, in future, if so advised, seeking remedy of their grievances.

No order as to costs.


JUDGE


JUDGE

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