

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM &
ARUNACHAL PRADESH)**

WP(c) 279(AP)2015

Sri Ramesh Linggi

Assistant Director

(Presently serving as Officiating Joint Director),

Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, PO & PS - Itanagar, Chimpu, Papum Pare District, Arunachal Pradesh.

.....Petitioner

-Versus-

1. The State of Arunachal Pradesh represented by Chief Secretary, Government of Arunachal Pradesh.
2. The Secretary, Sports & Youth Affairs, Government of Arunachal Pradesh, Itanagar.
- 3. Sri Tadar Appa, Sports Officer(Officiating Assistant Director, Joint Director, and Officiating Director in newly created Directorate of Sports), Department of Sports & Youth Affairs, Government of Arunachal Pradesh, Itanagar, Chimpu.**

.....Respondents

Advocates for the Petitioner : Mr. Rintu Saikia
Mr. Kemo Lollen
Mr. L. Nochi
Ms. C. D. Thongchi

Advocates for the Respondents: Ms. Geeta Deka, Senior Government Advocate, Arunachal Pradesh.

Mr. A. M. Buzarbaruah
Mr. Kento Jini
Mr. T. T. Tara
Mr. Tamar Gadi
Mr. D. Loyi
Ms. S. Ketan
Mr. G. Bam
Mr. M. Rime

:::BEFORE:::
HON'BLE MRS.(DR.) JUSTICE INDIRA SHAH

Date of hearing : **17.08.2015**

Date of Judgment & Order : **28.08.2015**

JUDGMENT & ORDER (CAV)

Heard Mr. Rintu Saikia, learned counsel for the petitioner.

Also heard Ms. Geeta Deka, learned Senior Government Advocate, for State Respondents No. 1 & 2; as well as Mr. A. M. Buzarbaruah, learned senior counsel, assisted by Mr. T. T. Tara, learned counsel, appearing for private Respondent No. 3.

2. By filing this petition, under Article 226 of the Constitution of India; the instant petitioner has challenged the Notification dated 06.07.2015 whereby the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, was bifurcated into 2(two) identical Directorates i.e. Department of Sports and Department of Youth Affairs, and the appointment of private Respondent No. 3 vide order dated 10.07.2015, to the post of Director, Department of Sports, Government of Arunachal Pradesh, on functional charge, and has prayed for a direction to the respondent authorities, to exercise options before deploying any officer and staff from the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, to the newly created Directorate of Sports; and Directorate of Youth Affairs; as well as direction for the respondent authorities to give functional charge of Director in the newly Directorate of Sports, to the petitioner, who is the sole regular Assistant Director till bifurcation of the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh.

3. It has been submitted by Mr. Saikia, learned counsel for the petitioner, that the Government of Arunachal Pradesh decided to bifurcate

the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh into 2(two) separate identical Directorates; the proposal was sent for Cabinet approval along with the deployment lists but the Cabinet while approving the decision of bifurcation, observed that :- ***"Initially existing manpower from the existing Directorate of Sports & Youth Affairs, will made available for smooth functioning of both offices of : (i) Directorate of Sports; & (ii) Directorate of Youth Affairs, after obtaining willingness from the officials of Directorate of Sports & Youth Affairs."***

4. It is alleged by the instant petitioner Sri Ramesh Linggi, that the respondent authorities, have, arbitrarily and whimsically, in violation of the Cabinet Decision of the State Government, deployed the officers and staff of the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, into the 2(two) newly created Directorates, without seeking willingness, from them.

5. It is further alleged that the said deployment of the Officers and staff of the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, was made by the respondent authorities, without taking concurrence from the Finance Department, Planning Department, Empowerment Committee, and Administrative Reforms Department.

6. In the 2(two) deployment lists of officers and staff who have been deployed in the 2(two) Directorates, namely, Directorate of Sports and Directorate of Youth Affairs; the name of the private Respondent No. 3 Sri Tadar Appa, has not been reflected. By the subsequent order dated 10.07.2015; the private Respondent No. 3 who is a Sports Officer, has been appointed as the Director, Directorate of Sports, on functional basis, ignoring the seniority position of the petitioner, above-mentioned, who is the sole regular Assistant Director in the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh. the private Respondent No. 3 was holding the post of officiating Assistant Director vide order dated 03.09.2003. He was, thereafter, promoted to the post of Joint Director, again, on

officiating basis, vide order dated 16.01.2015, meaning thereby, the said private Respondent No. 3 has been given triple officiating promotions without regularizing his services, in the first two cadres/posts i.e. Assistant Director and Joint Director, respectively.

7. The petitioner, on the other hand, Sri Ramesh Linggi, was initially appointed as a Sports Officer. Subsequently, he was appointed as the Joint Secretary, on regular basis, vide order dated 15.10.1999, in the erstwhile Arunachal Pradesh State Sports Council('Sports Council', for short). As per the policy decision of the State Government, the said 'Sports Council' was merged with the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, vide Notification dated 17.07.2003 whereby all the staff and machineries borne in the establishment of the Sports Council were transferred to the establishment of the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh. The said merger and re-designation of the petitioner's post as Joint Director, as regular Assistant Director; was never challenged by the private Respondent No. 3, Sri Appa. One Smt. Mala Linggi, filed a writ petition before this Court viz. WP(c) 273(AP)2003 challenging the *en bloc* transfer of the officers and staff of the said Sports Council, to the establishment of the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh. However, the said writ petition was dismissed by the Court. Vide order dated 19.08.2003, issued by the Secretary, Sports & Youth Affairs, are treated as regular staff of the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh.

8. It is the contention of the writ petitioner that private Respondent No. 3 is junior to the petitioner and his service was never regularized in the Sports Council and he was sent on deputation to the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, vide order dated 16.12.1996. Without regularizing his service, he has been permanently observed as Sports Officer, in the said Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, vide order dated 06.07.2001.

Earlier, the writ petitioner Sri Ramesh Linggi had challenged the promotion of private Respondent No. 3 Sri Tadar Appa, to the post of Joint Director, on officiating basis, by the Secretary, Sports & Youth Affairs, Government of Arunachal Pradesh, and this Court, vide common judgment & order dated 08.01.2013 passed in WP(c) 325(AP)2012 and WP(c) 334(AP)2012; directed the respondent authorities to bring-out the combined seniority list, in question, and to constitute the Departmental Promotion Committee(DPC), to settle the matter at the earliest, preferably, within 6(six) months from the said date.

9. The private Respondent No. 3, in his counter affidavit, has averred that the petitioner Sri Linggi was appointed purely on temporary basis, in the office of the said Sports Council. His service has not been regularized in the post of Sports Officer although the petitioner was appointed in the post of Joint Secretary in the Sports Council, on regular basis, vide order dated 15.05.2013, issued by the Commissioner and Secretary(Sports & Youth Affairs), Government of Arunachal Pradesh, Itanagar, his promotion is in violation of Articles of Association.

10. It is further averred that there is no seniority list of Assistant Directors in the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh and the matter, in this respect, is pending before this Court, by way of filing the writ petition viz. WP(c) 35(AP)2014. Therefore, the said petitioner cannot claim seniority over the private Respondent No. 3, till the disposal of the said writ petition.

11. It is submitted by Ms. Deka, learned Senior Government Advocate, that the Cabinet decision was to obtain willingness of the Officers and Staff working in the erstwhile of Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh. The Cabinet direction was not to obtain option from the Officers and Staff. The list of Officers proposed to be put for promotion to the posts of Directors in the two newly created Directorates i.e. Directorate of

Sports and Directorate of Youth Affairs; have been prepared by the State Government and the relevant file has been moved, seeking willingness from the officers concerned as well as staff of the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, and the said file has been endorsed to the Chief Secretary to the Government of Arunachal Pradesh, for issuance of necessary Notification.

12. Considering the matter in its entirety, and for the ends of justice, the respondent authorities are hereby categorically directed to prepare and immediately bring-out the combined seniority list as ordered by this Court, earlier; more specifically, seniority list, with regard to the cadre/post of Assistant Director in the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, strictly, in accordance with law; and to constitute the Departmental Promotion Committee (DPC), in question, immediately, and to complete the proceedings of the said Departmental Promotion Committee(DPC), within a period of 45(forty five) days, from today.

13. That apart, the authorities concerned are hereby directed to seek willingness of all the Officers as well as staff of the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, fairly, and without any lapse and/or delay. It is hereby made clear that entire process as directed above, must be completed by the respondent authorities, within the time period, stipulated above.

14. The petitioner, Sri Ramesh Linggi, is hereby instructed to submit a certified copy of this order before the appropriate authority, within 3 days, from today; thereby enabling the respondent authorities to initiate immediate steps for strict compliance of this order, without any delay and lapse.

15. With the above directions, this writ petition stands disposed of.

16. Registry shall return the 'Dummy File' to the learned Government Advocate, forthwith.

JUDGE

Bikash