

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

**WP(c) 280(AP)2015**

**Sri Gumnya Karbak**

S/o Sri Igum Karbak

Village - Karbak, PO & PS- Kamba

West Siang District, Arunachal Pradesh.

(Presently working as Joint Director,

Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh)

*.....Petitioner*

**-Versus-**

1. The State of Arunachal Pradesh represented by the Chief Secretary, Government of Arunachal Pradesh, Itanagar.
2. The Secretary, Sports & Youth Affairs, Government of Arunachal Pradesh, Itanagar.
- 3. Sri Tadar Appa, Joint Director(Functional), Department of Sports & Youth Affairs, Government of Arunachal Pradesh, Arunachal Pradesh.**

*.....Respondents*

Advocates for the Petitioner : Mr. Ninnong Ratan  
Mr. K. Loya  
Mr. J. Lollen  
Mr. R. Vijoy  
Mr. R. Ngomle  
Mr. T. Taggu

Advocates for the Respondents: Mr. R. H. Nabam, Addl. Advocate  
General, Arunachal Pradesh

Mr. A. M. Buzarbaruah  
Mr. Kento Jini  
Mr. T. T. Tara  
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. Ninnong Ratan, 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 appointment of private Respondent No. 3 to the post of Director, Department of Sports, Government of Arunachal Pradesh, on functional charge.

**3.** The instant petitioner, Sri Gumnya Karbak, has been serving as Joint Director in the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh.

**4.** It has been submitted by Mr. Ratan, learned counsel for the petitioner, that seniority position of the petitioner Sri Karbak and private Respondent No. 3, namely, Sri Tadar Appa and one Smt. Mala Linggi, was decided and finally settled by this Court vide order dated 21.07.2010 passed in WP(c) 437(AP)2009. The said decision was also upheld by the Division Bench, of this Court, vide common judgment & order dated 14.06.2011, passed in Writ Appeals viz. W.A. No. 280/2010 and W.A. 293/2010, whereby the said petitioner has been held senior to the private Respondent No. 3 Sri Appa; as well as said Smti. Linggi.

**5.** In pursuance to this Court's said judgment dated 14.06.2011, *inter-se* seniority list of the petitioner Sri Gumnya Karbak, private Respondent No. 3 Sri Tadar Appa and Smt. Mala Linggi; was rectified by the Secretary, Sports & Youth Affairs, Government of Arunachal Pradesh, Itanagar; whereby the petitioner Sri Karbak was placed above the said private Respondent No. 3 and said Smt. Linggi. However, vide order dated 06.08.2012, the private Respondent No. 3 who was officiating as an Assistant Director in the said Department and who is junior to the instant petitioner; was further given the additional charge of Joint Director, Department of Sports & Youth Affairs, Government of Arunachal Pradesh. The said order was also challenged by the instant petitioner by filing a writ petition before this Court being WP(c) 334(AP)2012. That apart, one Sri Ramesh Linggi, Assistant Director, Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, Itanagar; also challenged the said order dated 06.08.2012, by filing another writ petition before this Court, being WP(c) 325(AP)2012. Both the writ petitions were disposed of, by this Court, vide common judgment & order dated 08.01.2013, directing the respondent authorities to bring-out a combined seniority list and to constitute a Departmental Promotion Committee(DPC) to settle the matter preferably within a period of 6(six) months from the date of the said order. The said judgment & order dated 08.01.2013, was challenged before this Court, by Sri Ramesh Linggi, by way of filing a Writ Appeal before the Division Bench of this Court, viz. W.A. 49/2013 and during the pendency of the said appeal, the impugned order dated 06.08.2012, by which the private Respondent No. 3 Sri Appa, was given the additional charge of Joint Director, Sports & Youth Affairs, Government of Arunachal Pradesh; was withdrawn by the Secretary concerned vide order dated 17.05.2013 and accordingly, the said Writ Appeal was disposed of, as having become infructuous, vide order dated 20.05.2013. Thereafter, a combined seniority list was published by the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, whereby the petitioner was placed at Serial No. 3, above the private Respondent No. 3 Sri Tadar Appa and one Sri Ramesh Linggi.

**6.** It is alleged that though the respondent authorities of the Department concerned, published the combined seniority list, in question, as per the directions of this Court however, till date, no further steps have been taken by the said Department in compliance to the Court's order regarding constitution of Departmental Promotion Committee(DPC) to fill-up the vacant post of the said Department, on regular basis.

**7.** Situated thus, the private Respondent No. 3 who is junior to the present petitioner, has been allowed to officiate as Assistant Director and thereafter, again allowed to officiate as Joint Director without holding a single Departmental Promotion Committee(DPC). The instant petitioner then filed another writ petition being WP(c) 540(AP)2013 for a direction to hold the Departmental Promotion Committee(DPC), in question, and for giving him, the regular promotion as Assistant Director and then Joint Director in the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh. During pendency of the said writ petition, the petitioner was given promotion as Joint Director on functional basis vide order dated 30.12.2014.

**8.** By Notification dated 06.07.2015 issued by the Chief Secretary to the Government of Arunachal Pradesh, Itanagar; the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, was bifurcated into two identical directorates i.e. Directorate of Sports and Directorate of Youth Affairs. Vide impugned order dated 10.07.2015 issued by the Chief Secretary to the Government of Arunachal Pradesh, Itanagar; the officers and staff serving in the Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh; have been divided and deployed to the newly created two Directorates i.e. Directorate of Sports and Directorate of Youth Affairs, in a most arbitrary and discriminatory manner.

**9.** In the said deployment list, the name of the present petitioner appears in the newly created Department of Youth Affairs whereas the name of the private Respondent No. 3 Sri Tadar Appa, has not been reflected in

any of the two deployment lists for the two newly created Directorates, as mentioned above. By subsequent order dated 15.07.2015, the Chief Secretary to the Government of Arunachal Pradesh, Itanagar, has appointed the private Respondent No. 3 as the Director in the Department of Sports, Government of Arunachal Pradesh, on functional charge.

**10.** It is the contention of the petitioner that the said private Respondent No. 3 who is junior to the instant petitioner has been appointed as the Director in the Department of Sports, Government of Arunachal Pradesh. By the above illegal action, the petitioner who is though senior to the said private Respondent No. 3, has been deprived by the authorities concerned, in a biased manner, to be considered to the post of Director to the newly created Department of Sports.

**11.** It is further submitted by Mr. Ratan, learned counsel for the petitioner, that the instant petitioner is ready and willing to be deployed in the Department of Sports, however, no opportunity was given to the petitioner to exercise his option. According to the learned counsel, even if the said private Respondent No. 3 has been appointed to the post of Director, Department of Sports, Government of Arunachal Pradesh, on functional basis, then also, the petitioner, being senior to the said private Respondent No. 3, should not have been sidelined in a hush-hush manner and he ought to have been given the preference of the said Department of Sports.

**12.** The private Respondent No. 3, Sri Tadar Appa, in his counter affidavit; has averred that bifurcation of the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, into two identical Departments, was done in the greater interest of public service and the employees of the said Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, were deployed in the two newly created Departments, as a part of the policy decision taken by the State Government. The name of private Respondent No. 3 was not shown in any of the deployment lists of the two Departments

due to typographical mistake. The said private Respondent No. 3 has been allowed to hold the functional charge of Director in the Department of Sports, Government of Arunachal Pradesh, in his own scale of pay of Joint Director, till creation and regular posting of the Director in the Department of Sports, so that the newly created Department of Sports can start its functioning. As of now, there is no seniority list of Assistant Director in the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh in view of this Court's order dated 29.01.2014 passed in WP(c) 35(AP)2014. That apart, according to him, service jurisprudence never demands that seniority shall be the sole criteria for promotion of the incumbent to the higher post and therefore, he contends that there is no illegality, arbitrariness, or discrimination, committed by the authorities concerned against the petitioner Sri Gumnya Karbak.

**13.** This Court, vide order dated 08.01.2013 passed in WP(c) 334(AP)2012, and WP(c) 325(AP)2012, directed the respondent authorities to bring-out a combined seniority list and to constitute the Departmental Promotion Committee(DPC), in question, to settle the matter, at the earliest. The respondent authorities were further directed to settle the matter within a period of 6(six) months from the date of the said order.

**14.** On perusal of the averments made in the instant writ petition, it appears that no endeavour, whatsoever, has been made by the respondent authorities of the Department concerned, to bring-out the combined seniority list, in question, and to constitute the Departmental Promotion Committee (DPC) to settle the matter, once for all.

**15.** Ms. Deka, learned Senior Government Advocate, has submitted that the respondent authorities have taken initiative to call for the willingness of the employees serving in the erstwhile Directorate of Sports & Youth Affairs, Government of Arunachal Pradesh, to join, either, of the 2(two) newly created Departments viz. Department of Sports and Department of Youth

Affairs; in view of the Cabinet decision taken by the State Government. Therefore, the respondent authorities may be allowed some more time to settle the matter, once for all.

**16.** Considering the matter in its entirety, the respondent authorities are hereby, categorically, directed to 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 30(thirty) days, from today.

**17.** The instant petitioner, Sri Gumnya Karbak, 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.

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

**JUDGE**

*Bikash*