

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH**W P (C) No. 44 (AP) of 2014**

Arunachal Olympic Association,
Office at Rajiv Gandhi Stadium,
P.O. and P.S. : Naharlagun,
District : Papum Pare, Arunachal Pradesh
Represented by its Joint Secretary,
Shri Langkung Marik for common cause .

..... Petitioner.

– Versus –

1. State of Arunachal Pradesh,
Represented by the Chief Secretary,
Government of Arunachal Pradesh,
Itanagar.
2. The Secretary Panchayati Raj,
Government of Arunachal Pradesh,
Itanagar.
3. The Director Panchayati Raj,
Government of Arunachal Pradesh,
Itanagar.

..... Respondents.

Advocates for the Petitioner : MR. Tadup Tana Tara.
Mr. Dugmar Kamduk,
Mr. Tamar Gadi,
Mr. T. Bam.

Advocates for the Respondents : Ms. Goter Ete, GA (AP).
For Respondent Nos. 1 to 3.

BEFORE
THE HON'BLE MR. JUSTICE M. R. PATHAK

Date of Judgment : 27th February, 2017

JUDGMENT (CAV)

Heard Mr. T. T. Tara, learned counsel for the petitioner Association and Ms. G. Ete, learned Government Advocate for the State respondent Nos. 1 to 3.

2) Petitioners' association is a duly registered association under Section 3 of Society Registration Act, 1830 duly registered on 10.09.1977. Petitioners' Association is aggrieved as the Panchayati Raj Department of the State Government in its advertisement for recruitment of 177 posts of Panchayat Technical Assistant (JE) (PTA) made on 21.01.2014 did not keep 5% reservation of such posts for meritorious Arunachal Pradesh Schedule Tribe (APST) sportsperson of the State and as such prayed for necessary direction to the respondents to make fresh advertisement for those posts of PTA (JE) keeping 5 % reservations for meritorious sportsperson of the State in those posts by implementing the Office Memorandums of both the Central Government as well as the State Government in that regard.

3) It is submitted by the petitioner that Central Government in the Ministry of Home Affairs, Department of Personnel and Administrative Reforms by Office Memorandum No. 14015/1/76-Estt(D) dated 04.08.1990 laid down a policy for recruitment of sportsmen in various departments/offices in Group- C and D posts in relaxation of the procedures. By another Office Memorandum No. 15012/8/84-Estt (D) dated 12.11.1997 the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) relaxed the upper age limit up to maximum of 5 years and 10 years in the case of those belonging to Schedule Caste and Schedule Tribe for the purpose of appointment of meritorious sportsmen and sportswomen to all groups of Civil posts or its services under the Government of India, filled otherwise, than through competitive examinations conducted by UPSC, subject to satisfaction of all other eligibility conditions relating to educational qualifications. Moreover, by the Office Memorandum No. 14034/1/

95-Estt(D) dated 04.05.1995, the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) laid down the preference of appointment of meritorious sportsperson with regard to public employment. Further by another Notification dated 29.11.1996, the Government of India clarified regarding placement of meritorious sportsperson on the reservation roaster. It is to be noted herein that all the aforesaid memorandums suggest for direct recruitment vacancies.

4) Considering the above, the Government of Arunachal Pradesh vide Office Memorandum No. 13/2013 dated 14.05.2001 extended the facility to the meritorious APST sportsperson of the State for their appointment in Group B, C and D posts in the State following the same procedure as prescribe by the Government of India in the aforesaid 4 (four) Office Memorandums. By the said Office Memorandum dated 14.05.2001, the authority of the State clarified that all the appointing authorities/Heads of Department of the State to make recruitment not more than 5 % of the vacancies in Group B, C & D post against direct recruitment amongst meritorious sportsperson belonging to APST in relaxation the recruitment procedure under the conditions as stipulated in the Office Memorandums the Government of India noted above.

5) Relying on the decisions of this Court passed earlier in Court in W.P(C) No. 261 AP 2008 and W.P(C) 468/2011, both disposed of on 04.11.2008 and 14.05.2012 respectively, the petitioner's Association submitted that as this Court, considering the said Office Memorandum of the State Government dated 14.05.2001 in those two Writ Petitions directed the Police Department and the Education Department of the State to keep a reservation of 5% quota for meritorious sportsperson of the State, similar direction should also be given in the present case.

6) The respondents Panchayat Department of the State by submitting their affidavit, contested the matter and contended that those advertised 177 posts of Panchayat Technical Assistants (JE) are purely contractual posts under a scheme, namely, *Rajiv Gandhi Panchayat Sasaktikaran Abhiyan*, which is for a limited period and that those contractual posts are against particular *Anchal Samitees* and

therefore, reservation of 5% quota for sports person is not possible, since each of those 177 posts of PTA (JE) have been sanctioned against 177 numbers of *Anchal Samitees* (Block Panchayat) of Arunachal Pradesh and that the scheme is a time bound scheme, where the advertised posts under it are on contractual basis.

7) Learned State counsel on instruction of the Department of the Panchayati Raj, communicated vide No. PR-RGPSA/675/2014/4 dated 01.10.2014, submitted that said Panchayati Raj Department is autonomous body function through Financial Grants of State and Central Government and the functionaries, i.e. the officials appointed in the Panchayat Department are appointed against particular Panchayat and therefore, the reservation policy of the State Government is not applicable to said department. For the said respondent, it is also contended that Office Memorandum of the State Government dated 14.05.2001 is not applicable to the Panchayati Raj Department as it does not contain any provision that such reservation policy is required to be adopted by the local bodies like Panchayati Raj Institutions from Zila Parishads to Gram Panchayats and therefore, the said Department is not bound to keep 5% reservations of Sports Quota while making recruitment in Panchayati Raj Department.

8) The petitioner's Association in reply submitted that the *Sarva Shiksha Abhiyan* is also a time bound scheme and that the said scheme has been implemented by the respective States of the country including state of Arunachal Pradesh, where the authorities in the Education Department of the State are engaging teachers in said SSA under the 5% quota of placement of meritorious sportsperson on contractual basis and to that extent placed several appointment orders of such teachers under SSA on contractual basis appointed under 5% sports quota issued by the Commissioner of Education Department, Government of Arunachal Pradesh.

9) The petitioner has also submitted that the respondents have already published the names of 145 selected candidates for said post of PTA under RGPSS Scheme for the *Anachal Samitees* and also named another 50 wait list candidates under the said Scheme.

10) In this case, while issuing notice to the respondents, the Court on 05.02.2014 passed an interim order, directing the respondents to keep/reserve 5% of posts of Panchayat Technical Assistant (JE) (PTA) out of the total 177 numbers of such posts advertised on 21.01.2014 in the Districts of East Siang, Upper Siang, Dibang Valley, Lower Dibang Valley, Lohit, Anjaw, Tirap, Changlang and Longding of Arunachal Pradesh, which is still in force and 5% of 177 comes to only 9 (nine) posts.

11) From the advertisement dated 21.01.2014 annexed to the petition it can be seen that though the Director of Panchayati Raj, the respondent No. 3 on made the advertisement for 177 posts of PTA (JE) on contractual service under the said department, but it clearly reflects that those 177 numbers of PTA are to be filled up by direct recruitment (contract) on the basis of walk-in-interview.

12) The Hon'ble Supreme Court in the case of *Khalid Hussain -Vs- Commissioner and Secretary to the Government of Tamilnadu*, reported in *1987 Supp SCC 329* while dismissing the petition *also observed that 'object sought to be achieved in public interest, namely, promotion of sports.'*

13) Persons who take sports as their career devotes much of their time in preparing themselves for their concerned event(s) and for the same, naturally they cannot give sufficient time for their studies and for that they cannot focus on their educational career. As such, they may not be in a position to compete with the other students who prepare themselves for such educational career. After participating in various sports competition at International or National level and on completion of their certain competing age in the sports, these meritorious sports persons look for service as an avenue for their living.

14) In order to promote sports in the State and also to take care of such meritorious APST sports persons, the State of Arunachal Pradesh have taken a policy decision to reserve 5% of posts in jobs in Group 'B', 'C' and 'D' posts for them, in relaxation of the recruitment procedure in the same terms and conditions as notified by the Government of India in their Office Memorandums issued for the said purpose. In that regard the State Government through the Department of

Personnel, Administrative Reforms and Training have issued the Office Memorandum dated 14th May, 2001 informing all the Appointing Authorities and Heads of Departments of the State to comply with the same. Therefore, this reservation of 5% of posts in jobs in Group 'B', 'C' and 'D' posts for meritorious APST sports persons, who fulfilled the eligibility criterias laid down in the said OM as well as the relevant OMs of the Government of India, specified in the OM dated 14.05.2001, shall be applicable in all the Offices of the State of Arunachal Pradesh and also the Corporations and the Undertakings, the Local Self Bodies and other Institutions that receive benefits directly or indirectly from the State and Central Government. Moreover, said policy decision is not under challenge and the same is in force in the State.

15) Further, said policy decision of the State Government dated 14.05.2001 have already been considered and upheld by this Court in other proceedings and the benefit of said OM dated 14.05.2001 has already been given effect to by other agencies of the State like SSA, Arunachal Pradesh.

16) Considering all these, the respondents in the Panchayati Raj Department of the State of Arunachal Pradesh is directed to fill-up 5% of posts of Panchayat Technical Assistant (JE) (PTA) out of 177 posts as per the advertisement made on 21.01.2014 on such 5% of posts that are kept vacant by the order dated 05.02.2014 passed earlier in this case from amongst the meritorious Arunachal Pradesh Schedule Tribe (APST) sportsperson as per the policy decision of the State in its Office Memorandum dated 14th May, 2001 following the directions given in the said OM.

17) With the aforesaid observation and direction this petition stands allowed. The interim order dated 05.02.2014 passed in this petition stands merged with this order. No order as to costs.

JUDGE

Pb/-