

(1989) 09 GAU CK 0013

Gauhati High Court

Case No: Civil Rule No. 38 of 1987

S.Sunilchandra Sharma

APPELLANT

Vs

State of Manipur

RESPONDENT

Date of Decision: Sept. 20, 1989

Acts Referred:

- Manipur Police Service Rules, 1965 - Rule 5(1)(b), 5(1)(b)

Citation: (1991) 2 GLJ 335

Hon'ble Judges: S.N.Phukan, J and M.Sharma, J

Bench: Division Bench

Advocate: N.Pramod Chandra Singh, B.P.Sahu, Advocates appearing for Parties

Judgement

S.N. Phukan, J.

The petitioner in this petition under Article 226 of the Constitution was appointed as Assistant SubInspector of Police and in the year 1986 he was promoted on officiating basis as SubInspector of Police. He was awarded Police Medal for gallantry with a monthly allowance of Rs.60/ in the year 1970 and again in the year 1978 he was awarded President Police Medal with a monthly allowance of Rs.60/. On 17.11.78 he was appointed on adhoc basis as Inspector of Police. It is stated that the said adhoc appointment was made in recognition of gallantry displayed by him and another Assistant SubInspector of Police during an encounter on 12.11.78 with Meitei Extremists. In the year 1981 again he was awarded Bar to the President Police Medal for gallantry with an allowance of Rs.40/ per month and in 1982 Police Medal for meritorious service was awarded to the petitioner on the Republic Day, Petitioner was given regular appointment as Inspector of Police on the recommendation of the departmental promotion Committee on 4.5.82 and he was confirmed in the said post on 27.5.87. The main grievance of the petitioner is that in view of his meritorious service rendered in the Police Department his appointment to "the service known as Manipur Police Service constituted under the Manipur Police Service Rules, 1965 should have been considered by taking his entire length

of service as Inspector from the date of his adhoc appointment to the said post.

2. In the counter filed on behalf of the respondents regarding various Medals awarded to the petitioner and his adhoc appointment have not been denied. The appointment of the petitioner on regular basis as Inspector and the subsequent confirmation have also not been denied. It has however been stated that the case of the petitioner along with 92 officers for regular promotion to the post of Inspector was considered by the Departmental Promotion Committee on 28.2.80, but it was found that there were officers with "Outstanding" and "Very good" annual confidential reports whereas in such reports of the petitioner he was graded as "Good". As regular promotion was on the basis of meritcum seniority the petitioner could not be appointed on regular basis in 1980. It has further been stated that appointment on adhoc basis does not confer any, right for promotion on regular basis. Regarding the appointment of the petitioner in the Manipur Police "Service respondents have stated that the petitioner was too junior" to be considered for appointment in that service.

3. We have heard Mr. Sahu, learned counsel for the petitioner and Mr. Pramod Singh, learned Senior Government Advocate.

4. Mr. Sahu does not dispute the statement that no officer who was appointed on regular basis as Inspector and junior to the petitioner, has been appointed as a Member of Manipur Police Service. Main argument of Mr. Sahu is that if the appointment of the petitioner on adhoc basis would have been taken into account the case of the petitioner for appointment to the above service should have been considered long back.

5. Relying on the decision of the Apex Court in Ashok Gulati vs. B.S. Jain, AIR 1987 SC 424, learned Senior Government Advocate has rightly urged that service rendered on adhoc basis or by stop gap arrangement cannot be considered. According to Mr. Pramod Singh the petitioner cannot claim to be appointed in the Manipur Police Service on the basis of his adhoc appointment from 17.11.78 to 4.5.82.

6. Rule 5 (1) (b) of the Manipur Police Service Rules, 1965, inter alia, provides that fifty percent of the substantive vacancies in the Manipur Police Service shall be filled up by selection from amongst officers who are substantively borne in the cadre Inspector of Police, Prosecuting Inspectors, Police (Prosecutors and Junior Commissioned Officers of Manipur Rifles. Thus the Rule is clear that only person holding any post mentioned in the said clause

(b) of Rule 5(1) substantively can be considered for appointment to the service namely Manipur Police Service. We are, therefore, of the opinion, in view of the above rule that petitioner cannot claim to be appointed in the said service by virtue of his adhoc appointment. The case of the petitioner can be considered only after his regular appointment as Inspector of Police. For gallantry displayed by the petitioner he has been decorated with Medals and Has also been given monetary

benefit. In the above rule there is no provision that by virtue of Medals and awards obtained by any officer, he can claim to be appointed in the Manipur Police Service. We have also noted that there is no allegation that any Junior Officer has been appointed to the service.

7. For the reasons stated above we do not find any merit in the present petition and as such it is dismissed, which he we hereby do.

In the result petition is dismissed. No costs.