

**L. Devendrajit Sharma Vs. the State of Manipur and ors.**

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**Court :** Guwahati

**Decided On :** Aug-20-2002

**Judge :** Ranjan Gogoi, J.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** Civil Rule No. 903 of 1997

**Appellant :** L. Devendrajit Sharma

**Respondent :** The State of Manipur and ors.

**Advocate for Def. :** Govt. Adv. and Ng. Kumar Singh, Adv.

**Advocate for Pet/Ap. :** H.S. Paonam, Adv.

**Disposition :** Application dismissed

**Judgement :**

**Ranjan Gogoi, J.**

1. The challenge in the instant Writ application is in respect of an order abated 2.4.1997 promoting the respondent No. 4 to the post of Sr. Lecturer (Violin) in the Government Music College. Though the aforesaid order dated 2.4.1997 recites that the promotion of the respondent No. 4 has been made to the post of Sr. Lecturer (Violin), the said promotion has really been made to the post of Sr.

Lecturer (Vocal) as evident from a conjoint reading of the orders dated 2.4.1997 and 30.7.1996 (Annexures - A/1 and A/2).

2. The petitioner who was appointed as Jr. Lecturer (Vocal) in the Government Music College by order dated 18.7.1986 has sought to challenge the aforesaid promotion of the respondent No. 4 primarily on the ground that the respondent No. 4 not having acquired the Visharad Degree in Vocal Music was not eligible for filling of the post, of Sr. Lecturer (Vocal). Mr. Paonam, learned counsel for the petitioner, in this regard has drawn my attention to the provisions of relevant Recruitment Rules governing recruitment to the posts of Jr. Lecturer as well as Sr. Lecturer in the Government Music College. Insofar as Jr. Lecturers are concerned one of the conditions of eligibility is that the incumbent must have a Visharad Degree in the concerned subject, A similar requirement has also been prescribed for direct recruitment to the post of Sr. Lecturers. However, the post of Sr. Lecturers to be filled up by promotion under the Recruitment Rules in force do not contain any such requirement and the only condition imposed is that an incumbent to be entitled for promotion to the post of Sr. Lecturer must have rendered 5 years regular service as Jr. Lecturer. Mr. Paonam, learned counsel for the petitioner contends that the omission to impose the same eligibility condition, i.e., that an incumbent to be entitled for promotion to the post of Sr. Lecturer must also hold a Degree in the concerned subject, has been inadvertently omitted from the R. R. and such a requirement must be read in the R.R. which would make the respondent No. 4 ineligible for the promotion in question. According to Mr. Paonam, learned counsel for the petitioner, a person who has obtained a Visharad Degree in Violin can by no stretch of imagination can be eligible to fill the post of Sr. Lecturer (Vocal) as has happened in the present case.

3. Smt. Ch. Bidyamani Devi, learned Govt. Advocate and Mr, Ng. Kumar Singh, learned counsel for the respondent No. 4 have advanced their respective arguments on behalf of the respondents. The learned counsels for the respective respondents have placed before the court the averments made in the affidavit of the State to the effect that according to the State Authority for filling the post of Sr. Lecturer by promotion from the cadre of Jr. Lecturer, it is not necessary that the Jr. Lecturer should have a Degree in the concerned subject. The learned counsels,

therefore, contend that the omission in the relevant R. R. that a person should have a Visharad Degree in the concerned subject for promotion to the post of Sr. Lecturer is a conscious omission while framing the Rules as in the considered view of the Authority such a requirement is not necessary for filling the post of Sr. Lecturer by way of promotion. Smt. Bidyamani Devi, learned Govt. Advocate has also drawn the attention of the court to the seniority list of Jr. Lecturers enclosed to the affidavit of the State as well as the Minutes of the Proceedings of the DPC held on 13.3.1997 for selection of candidates for promotion to the post of Sr. Lecturer. The Writ Petitioner is, admittedly, junior to the respondent No. 4 and the Minutes of the DPC proceedings would reveal that the case of the petitioner was taken up for consideration by the DPC.

4. The arguments and counter arguments advanced by the counsels of the respective parties give rise to one basic question needing determination by this court in the instant case - Whether the view taken by the State Government that for filling up the post of Sr. Lecturer by promotion, the concerned Jr. Lecturer need not have Visharad Degree in the concerned subject, is so unreasonable that interference of the Writ court is required. The decision on the aforesaid question is primarily for the Authority to take as the Authority is the best judge of the matter keeping in view that the Authority would have all requisite materials in this regard to arrive at the right conclusion. Time and again, it has been emphasised that the Writ court should not constitute itself as an expert body to sit in judgment over the view of the experts. Whether a Jr. Lecturer (Violin) is competent to discharge the functions of the Sr. Lecturer (Vocal) is a question primarily to be decided by the expert body and the experts have decided the aforesaid question in the affirmative. There is hardly any material on record to enable this court to take a contrary view. It is neither evident from the pleadings of the petitioner that a Visharad Degree holder in Violin has no knowledge of Vocal Music to discharge the duties of Sr. Lecturer (Vocal) nor is there any material to hold that a Jr. Lecturer holding a Visharad Degree in Violin is necessarily incapacitated from holding the post of Sr. Lecturer in Vocal Music, by way of promotion. The validity of the Recruitment Rules in force is also not an issue in the present case. Consequently, I am unable to agree with the contentions advanced by the learned-counsel for the petitioner that the impugned order of promotion of the respondent

No. 4 suffers from infirmities apparent on the face of the record or that the said decision is so unreasonable that interference is called for in the exercise of extraordinary power vested in this court under Article 226 of the Constitution.

5. For the aforesaid reasons, the Writ Application is to be dismissed, which I hereby do. However, having regard to the facts and circumstances of the case, there shall be no order as to costs.

Before parting with the record, this court has noticed that by a communication dated 24.8.2001 placed before this court by the learned counsel for the petitioner, the case of the Writ Petitioner for promotion to the post of Sr. Lecturer has been recommended by the Principal as the most suitable and eligible candidate. The Director of Arts and Culture, Government of Manipur shall take into consideration the aforesaid recommendation and if the post of Sr. Lecturer in question is required to be filled, the case of the petitioner shall be considered in the light of the aforesaid recommendation. The copy of the communication dated 24.8.2001 shall be kept on record of the case.

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