



Case No. Contempt Case (C) No. 1/2004

Serial No.	Date	Order (s) with Signature (s)
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06.	30.06.10	<p style="text-align: center;">BEFORE</p> <p style="text-align: center;">HON'BLE THE CHIEF JUSTICE MR. JUSTICE BARIN GHOSH</p> <p>Present : Mr. J. B. Pradhan, Public Prosecutor with Mr. Karma Thinlay Namgyal, Addl. Public Prosecutor and Mr. S.K. Chettri, Asstt. Asst. Public Prosecutor for the State respondents.</p> <p style="text-align: center;">*****</p> <p>In three writ petitions, challenge was thrown to the subsequent seniority list. It was contended that there was no valid reason for changing the seniority list. It was also contended that the change in seniority list has affected rights of the petitioners and, accordingly, in law, they were entitled to be heard before such alteration was made, but the fact remains that no such hearing was given. In writ petitions, private respondents were added as parties, who were alleged to have got undue advantage by reasons of the altered seniority list. Court dealt with all three writ petitions simultaneously and disposed of them by a common judgment and order dated 16-12-2003. Court felt that alteration of seniority list in relation to other respondents to writ petitions was not available whereas interference into the alteration of seniority of Shri Alfred Karthak by the altered seniority list is interferable. Court has, accordingly, interfered with</p>


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		<p>the same. Court, accordingly, quashed the order dated 08-02-2001 whereby seniority of Shri Alfred Karthak stood altered from 198 to 150. While, however, Court did so, it made clear that the judgment and order of the Court shall not stand on the way of the State respondents or the authorities to reconsider the inter-se seniority position of writ petitioners, private respondents and other members of Sikkim State Civil Service concerned in terms of the related service rule of Sikkim State Civil Service Rules, 1977 by giving prior notices to all the members of the Sikkim State Civil Service concerned, if so advised.</p> <p>Taking clue from this part of judgment and order of the Court, the State appointed a One Man Committee. This Committee instead of giving notice to all the members of the Sikkim State Civil Service concerned and by giving notice only to the petitioners and the said Alfred Karthak purported to hold that fixation of the seniority of Shri Alfred Karthak, as was made by the order dated 08-02-2001, which was quashed by this Court, is just and proper. Acting on the basis of the said opinion of the Committee, the State Government also purported to issue an order to that effect.</p>

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		<p>The said action on the part of the State and its authorities resulted in initiation of present suo motu contempt proceedings. During the pendency of the contempt proceedings, order of the Court was challenged before the Hon'ble Supreme Court by the State. The judgment and order of the Court was not stayed by the Hon'ble Supreme Court, while, however, this Court was restrained from proceeding with the contempt proceedings.</p> <p>During the time the matter was pending before the Hon'ble Supreme Court, State Government realised its mistake in accepting the report of the One Man Committee. It, accordingly, issued a Notification/ Order and thereby withdrew its earlier order accepting the opinion of the Committee. In the result, the order of the State Government dated 08-02-2001 giving aforementioned benefit to Shri Alfred Karthak stands rescind from all practical purposes. The Court's order, accordingly, seems to have been complied with by the State and its functionaries. In each of these proceedings, show causes have been filed by the Principal Secretary, Department of Personnel, A.R. Training, Public Grievances, Career Option, Employment Skill Development and Chief Minister's Self Employment Scheme, Government of Sikkim,</p>

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		<p>where in no uncertain terms, it has been stated that it was a mistake on the part of the Government and its functionaries to accept the erroneous report submitted by the Committee. The said show cause also suggests remorse on the part of State and its authorities in acting in the manner, which resulted in initiation of suo motu contempt. The show cause also tenders unconditional apology.</p> <p>When the matters pending before the Hon'ble Supreme Court were taken up for consideration, it appears, the same was not pressed inasmuch as by that time Shri Alfred Karthak had retired. Hon'ble Supreme Court, accordingly, dismissed the appeal preferred against the said order of this Court recording that the same has become infructuous.</p> <p>In the facts and circumstances of the case, I think, it would be appropriate on the part of this Court to accept unconditional apology tendered in show causes and upon accepting the same, the contempt proceedings are closed. Rules stand discharged.</p> <p>Let a copy of this order be kept in the files of other two contempt proceedings.</p> <p style="text-align: right;">  Chief Justice <u>30.06.2010</u> </p>

rsr/pm