



Serial No. 01  
Supplementary List

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 462 of 2021

Date of Decision: 27.03.2026

Shri. Nathaniel John Dexter Shadap  
S/o (L) John Booth  
R/o Laitumkhrah, Nongkynrih, Shillong  
793003, East Khasi Hills District,  
Meghalaya.

..... **Petitioner**

-Versus-

1. The State of Meghalaya, through the Chief Secretary to the Government of Meghalaya, Shillong.
2. The Principal Secretary to the Government of Meghalaya, Agriculture Department, Shillong.
3. The Secretary to the Government of Meghalaya, Agriculture Department, Shillong.
4. The Joint Secretary to the Government of Meghalaya, Agriculture Department, Shillong.
5. The Director of Agriculture, Meghalaya, Shillong.



6. Smti. Purnima K. Sangma,  
District Agriculture Officer,  
West Garo Hills, Tura.
7. Smti. Batrity Myllem Umlong,  
District Agriculture Officer,  
East Khasi Hills District, Shillong.
8. Shri. Kiang Bai Lakiang,  
District Horticulture Officer,  
East Khasi Hills District, Shillong.
9. Shri. Ollan Singh Suin,  
Asstt. Director of Agriculture,  
Mawkyrwat. (Since retired)
10. Smti Bidalyne Laso  
Deputy Director, MAMETI,  
Upper Shillong, East Khasi Hills District.
11. Smti. Diwly Mukhim,  
District Horticulture Officer,  
South West Khasi Hills, Mawkyrwat.
12. Smti. Vallariancy Mary Skhemlond,  
Deputy Director of Horticulture  
(Planning), H.Q.
13. Smti. Annie Winda M. Sangma,  
District Agriculture Officer,  
Resubelpara.
14. Shri. Uchon Rangza Marak,  
Asstt. Director of Horticulture,  
Ampati. (Since retired).
15. Smti. Queen Mary Lyngdoh,  
Asstt. Director of Horticulture,  
Khliehriat. (Since retired)



16. Shri. Wanorlang Syiemlieh,  
District Horticulture Officer,  
Nongstoin.
17. Shri. Lennie Donald Wahlang,  
Asstt. Director of Horticulture,  
Williamnagar. (Since Expired)
18. Smti. Banella B Wanshnong,  
Asstt. Director of Horiculture (Mktg),  
Mawkyrwat. (Since retired).
19. Shri. List Joint Niang,  
District Agriculture Officer,  
Nongstoin.
20. Smti. Syrpailynore Dkhar,  
Deputy Director of Agriculture  
(Agronomy), HQ.
21. Smti. Angela Mary Dohling,  
Asstt. Director of Agriculture (Soil),  
Shillong. (Since expired).
22. Shri. Bibhash Chardra Hajong,  
District Agriculture Officer,  
Mawkyrwat.
23. Shri. Jitendra Prasad Verma,  
District Horticulture Officer,  
Williamnagar.
24. Smti. Merginia Dkhar,  
Asstt. Director of Horticulture (Mktg),  
Shillong. (Since retired).
25. Shri. Baphin Kerlang Sohliya,  
Meghalaya Agricultural Service Grade- II,  
Meghalaya Basin Development Authority. (Since retired).



26. Shri. Darius Syiemiong,  
District Horticulture Officer,  
Resubelpara.
27. Smti. Desina Lyngdoh,  
District Agriculture Officer, Nongpoh.
28. Mrs. Babli. N. Sangma,  
Principal, Basic Agriculture Training Centre,  
Upper Shillong.
29. Smti. Damayansha Nongkhlaw,  
Meghalaya Agricultural Service Grade- II,  
Asstt. Director of Agriculture (SSF),  
Sambrak.
30. Shri. Bomfield G. Momin,  
Sub-Division Agriculture Officer,  
South Garo Hills, Bagmara.
31. Shri. Shanbha Rani,  
Research Officer, DLRS, Sangsangre Tura,  
West Garo Hills District.
32. Smti. Delmanita G. Kharkongor  
Senior Instructor BATC, Upper Shillong.  
East Khasi Hills District.
33. Smti. Bansara Myllemngap,  
Sub. Division Agriculture Officer,  
East Jaintia Hills District, Khliehriat.
34. Shri. Hironya Gasumatary,  
Sub Division Agriculture Officer, Dadenggri,  
West Garo Hills.
35. Shri. Eddie Murphy Harlada Passah,  
Sub Division Agriculture Officer,  
East Khasi Hills District, Shillong.



(Respondents No. 9, 14, 15, 17, 18, 20, 21, 24, 25 & 28 deleted from the array of parties Vide Court's order dated 27.04.2022 passed in MC[WP(C)] No. 66 of 2022).

(Respondent Nos. 6-8, 11-13, 16, 19, 22-23, 26-27, 29-31 and 33-35 struck off from the array of parties vide Hon'ble Court's order Dated 09.07.2025 passed in WP(C) No. 462 of 2021).

..... Respondents

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv. with  
Mr. R. Pahsyntiew, Adv.

For the Respondent(s) : Mr. S. Sen, GA.  
Ms. R. Colney, GA.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

### **JUDGMENT AND ORDER**

1. Said to have been denied promotion to the post of Meghalaya Agricultural Service, (MAS) Grade-II during the years 2013 and 2015, the respondent authorities preferring and promoting his juniors without assigning any reasons, the petitioner has now approached this Court with relevant prayer for restoration of his seniority as on 2013.



2. Heard Mr. Philemon Nongbri, learned counsel for the petitioner who, at the outset, has detailed the factual background of the petitioner's case to say that the petitioner was initially appointed to the Meghalaya Agricultural Subordinate Service, Grade-I (Old Rules), vide notification dated 06.01.1990 upon the recommendation of the Meghalaya Public Service Commission (MPSC). Such appointment being made under Regulation 3(f) of the Meghalaya Public Service Commission (LOF) Regulation 1972. He has then joined in the post of Agriculture Extension Officer (Horticulture) Samanda Development Block, East Garo Hills.

3. The petitioner was also called to appear for an interview conducted by the MPSC to the available post under the Meghalaya Agricultural Subordinate Service, Grade-I, on being declared successful and placed at Serial No. 11, on 06.01.1990, he was posted as Research Assistant in the Tura office of the Research Office, District and Local Research Station & Laboratories, Tura.

4. In the meantime, the Government of Meghalaya has formulated and notified "the Meghalaya Agricultural Service Rules 1996" for regulating the recruitment and condition of service of persons appointed to the agriculture service. As a consequent thereof, the post held by the petitioner was redesignated as a post under the Meghalaya Agriculture Service (MAS), Grade-III, under the 1996 Rules.



5. It is the further submission of the learned counsel that pursuance to the formulation of the said rules, the State respondent has prepared an inter se Seniority list of the members of the Meghalaya Agriculture Service (MAS), Grade-III, the petitioner being placed at Serial No. 102 in the Seniority list, whereas, the respondent Nos. 6 to 35 has been placed at Serial Nos. 103 to 122 respectively and Serial Nos. 136 to 138.

6. That vide notification dated 10.01.2013, 23 (Twenty-three) individuals from various post of Meghalaya Agricultural Service (MAS), Grade-III, were promoted to the post of Meghalaya Agricultural Service (MAS), Grade-II. Some of these are junior in service to the petitioner, while the name of the petitioner was not considered, thereby, he was then superseded by his juniors.

7. The learned counsel for the petitioner has also submitted that again, the Government of Meghalaya in the Agricultural Department vide notification dated 01.06.2015 has promoted 11 (Eleven) officers from various posts of the Meghalaya Agricultural Service (MAS), Grade-III, all of whom are junior to the petitioner. Once, again the petitioner was denied promotion by such arbitrary and discriminatory action of the respondent authorities resulting in his juniors to supersede him.

8. In this regard, the learned counsel has submitted that Rule 9 of the said Meghalaya Agricultural Service Rules 1996, provides that the basis and



criteria for consideration of promotion of a member of the cadre is seniority, and, if a junior member is selected for promotion in preference to his seniors, the committee shall record in writing, the reasons for doing so.

9. Being aggrieved by the action of the respondent authorities, the petitioner has made several requests to the department to consider his case for seniority. However, no response was forthcoming in this regard. Instead, the State respondent has prepared and notified a new seniority list of the Meghalaya Agricultural Service Officers in 2016, wherein the respondent Nos. 6 to 35 have been placed in a separate inter-se seniority list of Grade-II officers, while the petitioner was placed in a separate list of Grade-III officers, albeit, at Serial No. 1 in the said list, submits the learned counsel.

10. It is a fact that though, subsequently the petitioner was promoted from Grade-III to Grade-II vide notification dated 05.01.2017, but the situation remains the same as far as his seniority, vis-à-vis, his juniors is concerned, since they have also been promoted and has reached the level of Grade-I, whereas the petitioner is still lingering at Grade-II level, which has prompted the petitioner to make several representations dated 02.03.2021 and 09.08.2021 to the authorities to consider his promotion to the level of his actual seniority as on 2013, submits the learned counsel.

11. The learned counsel went on to submit that, inspite of such



representation, no action was taken by the respondent authorities, and instead, had promoted the petitioner to Grade-I (below Deputy Director level post) while some of his juniors have been promoted to the level of senior Grade and Grade-I, (Deputy Director level post). This has once again compelled the petitioner to file representation dated 25.11.2021, but no action was taken by the competent authority. Hence this petition.

12. The learned counsel has submitted that the action or rather the inaction of respondent authorities as far as the case of the petitioner is concerned, is a violation of the statutory rules, viz; Meghalaya Agricultural Service Rules 1996, particularly Rule 9 (3) where in a case of juniors being preferred over seniors, the committee shall record in writing the reasons for doing so. The word 'shall' making it a mandatory requirement. In this regard, the case of A.R. Antulay v. Ramdas Srinivas Nayak and Anr, (1984) 2 SCC 500, para 22 has been referred by the learned counsel for the petitioner, who has submitted that in the said judgment, the legal principle that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all was emphasized.

13. That the fundamental rights of the petitioner were also violated is the contention of the learned counsel who, in this connection has relied in the case of Ajit Singh and Ors. (II) v. State of Punjab and Ors, (1999) 7 SCC 209, para



21 to 27.

14. There being no negative remarks against the petitioner in his service career, that is no disciplinary proceedings was ever initiated not was any adverse entry found in his ACR, therefore, the petitioner has a right to be considered for promotion as enshrined under Article 16 (1) of the Constitution of India.

15. The learned counsel has however submitted that in course of these proceedings, almost all the private respondents herein have since retired from service, as such, the petitioner has made necessary prayer for such respondents to be dropped from the array of respondents which was done so, vide relevant orders of this Court. The petitioner himself has since retired. Under such circumstances at this juncture, the petitioner has limited his prayers to notional promotion for the purpose of seniority and pensionary benefits, that is for restoration of his seniority to the position he held in the 1997 Seniority list (Serial No.102) as against his juniors who has subsequently superseded him. The case of State of Mysore v. C.R. Sheshadri and Ors, (1974) 4 SCC 308, para 5 to 8 was referred to in this regard.

16. The learned counsel has fairly submitted that, if the case of the petitioner succeeds and his seniority is restored notionally, there will however be no demand for payment of arrears of salary for the relevant period. The case of State of Haryana & Ors. v. O.P. Gupta and Ors, (1996) 7 SCC 533, para 7 has



been cited in this regard.

17. It is therefore prayed that the petitioner may be allowed and the petitioner may be given his actual due.

18. In reply, Mr. S. Sen, learned GA appearing for the State respondent has submitted that this is a clear case where the petitioner by his own conduct, has forfeited any right to being considered for promotion retrospectively, his main grievance was that he was overlooked for promotion, firstly, in the year 2013 and secondly, in another round of promotion affected in the year 2015 in the Meghalaya Agricultural Service (MAS), but he has approached this Court only in the year 2021, that is, about 8(eight) years or so after the first promotion which has allegedly affected his rights.

19. The learned GA has further submitted that though, the petitioner at para 12 of this petition, has stated that he has made several requests to the department to look into the matter as regard his actual seniority as on 2013, yet there is nothing on record to substantiate this claim. Instead, the petitioner has referred to two of such representations made to the authorities on 02.03.2021 and 09.08.2021 (Annexure -13 and 14 of this petition), which, as has been submitted, has come at a very belated stage.

20. The learned GA has also submitted that the Director of Agriculture vide communication dated 14.04.2016, has circulated a draft inter se Seniority



list of MAS Officers to all Drawing and Disbursing Officers, Agriculture/Horticulture, with a request to circulate the same to all Officers under their control, which the petitioner being one such officer, is also presumed to have received the circular. However, even at that particular point of time, there was no objection or complaint raised by the petitioner as regard his seniority. This can only point out to the fact that there has been acquiescence on his part.

21. In support of this contention, the learned GA has relied upon the following decisions:

- i) P.S. Sadasivaswamy v. State of Tami Nadu, (1975) 1 SCC 152, para 2; and*
- ii) Shiba Shankar Mohapatra & Ors v. State of Orissa and Ors., (2010) 12 SCC 471, para 18, 19, 20, 21 22, 23, 24, 25, 26, 27, 28, 29, 30, 31.*

22. On the point of latches and acquiescence, the learned GA has referred to the case of Bichitrananda Behera v. State of Orrisa & Ors, (2023) 18 SCC 420, para 29, 30.

23. From the stand taken by the respective parties herein, what is understood is that the main grievance of the petitioner is that, inspite of being senior in service, his promotion to the higher grade(s) at the relevant point of time, has been arbitrarily and unjustly ignored, even though, there is an express provision in the Service Rules(MAS), particularly Rule 9 (3) of the said MAS



Rules of 1996 which provides that the authorities was required to cite reasons for promoting those who are junior as against those who are senior in the grade, which was not done so to the detriment of the petitioner's case.

24. The petitioner has laid emphasis on this aspect of the matter by referring to relevant judicial authorities in this regard, the case of A.R. Antulay (supra) where at para 22 of the same, is found that observation of the Supreme Court pointing to the legal principle that “...*Where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all...*”, the fallout of the same in the context of the case of the petitioner herein, is that his right to be considered for promotion which is a Fundamental Right under Article 16(1) of the Constitution has been violated, the case of Ajit Singh (supra), para 21, 22, 23, 24 & 27 being cited to support this contention.

25. The fact remained that the respondent authorities have not been able to produce any record to explain why those junior Officers were considered for promotion ahead of the petitioner at the relevant point of time, that is, in the year 2013 as well as 2015.

26. That the petitioner has eventually been promoted to Grade-II in 2017 and to Grade-I in 2021 has also been admitted. The question as was asked by the State respondent is, what has the petitioner done to air his grievance to the concerned authorities at the relevant point of time? Since the conduct of the



petitioner in this respect, would have a bearing on the outcome of this instant lis.

27. The learned GA in his argument, has maintained that the petitioner by not raising any objection to such alleged supersession by his juniors at the first point of time, that is, when he has alleged that he was overlooked for promotion to Grade-II from Grade-III in the year 2013 while those Officers who were junior to him in service and even in the gradation list have been promoted to Grade-II, and then the second time around, when he was again superseded by another batch of his juniors who were promoted to Grade –II in the exercise carried out to affect promotion in the year 2015, whereas he was lingering at Grade-III, his seniority again being overlooked, he has forfeited his right to raise this issue at this stage, the question of delay, laches and acquiescence coming into play.

28. As has been observed hereinabove, the grievance of the petitioner is that he has been overlooked for promotion, vis-à-vis, his juniors in the year 2013. The cause of action has therefore accrued to him since that year. Records do not bear witness to the fact that the petitioner has raised any objection or has filed any representation before the authorities in this regard in the year 2013 or near about. Even in the year 2015, here too, no representation or objection has been filed by the petitioner. Again, in the year 2017 when the said circular was issued, calling for any objection as far as the gradation list is concerned, the petitioner



is also found wanting as far as his comment or objection to the gradation list (which is said to have upset his seniority) is concerned. It was only in 2021 that the petitioner has raised the issue of his seniority by filing representations before the authorities.

29. In this regard, the observations of the Supreme Court in the case of Shiba Shankar Mahapatra (*supra*) at para 18, would answer this question, the same being reproduced herein as:

**“18.** The question of entertaining the petition disputing the long-standing seniority filed at a belated stage is no more *res integra*. A Constitution Bench of this Court, in *Ramchandra Shankar Deodhar v. State of Maharashtra, (1974) 1 SCC 317*, considered the effect of delay in challenging the promotion and seniority list and held that any claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb the vested rights of other persons regarding seniority, rank and promotion which have accrued to them during the intervening period. A party should approach the court just after accrual of the cause of complaint. While deciding the said case, this Court placed reliance upon its earlier judgments, particularly in *Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110*, wherein it has been observed that the principle on which the court proceeds in refusing relief to the petitioner on the ground of laches or delay, is that the rights, which have accrued to others by reason of delay in filing the writ petition should not be allowed to be disturbed unless there is a reasonable explanation for delay. The Court further observed as under: (*Tilokchand case, (1969) 1 SCC 110, SCC p. 115, para 7*)

**“7.** ... The party claiming fundamental rights must move the Court before other rights come into existence. The action of courts cannot harm innocent parties if their rights emerge by reason of delay on the part of the person moving the Court.”

30. In the same manner as has been put forth by the learned GA, the



petitioner has indeed passively accepted his situation. The proposition set out in the case of Bichitrananda Behera (supra) at para 29, can also be applied to the case of the petitioner herein, the same read as follows:

**29.** *Union of India v. N. Murugesans*, (2022) 2 SCC 25, (SCC pp. 37-38, paras 20-25)

*"Delay, laches and acquiescence*

20. *The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.*

*Laches*

21. *The word "laches" is derived from the French language meaning "remissness and slackness"\*. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.*

22. *Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of*



*Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.*

23. *A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.*

#### *Acquiescence*

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. *Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis."*

*(emphasis supplied)*



31. Granted, the petitioner has by this time retired from service, however, according to him, at the time of his superannuation, he was serving in Grade-I in the service, therefore, it cannot be said that since, his alleged supersession when he was placed in Grade-III, he has not been eventually promoted in the ranks. He would therefore be entitled to pensionary benefits commensurate with that of an Officer of Grade-I.

32. In view of the above, this Court finds that the petitioner has not been able to make out a case for himself under the circumstances. This petition being devoid of merits, is hereby rejected.

33. Petition disposed of. No costs.

**Judge**