

GAHC010063962026



2026:GAU-AS:5050-DB

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

WP(C) No.1834 of 2026

1. Ms. Lalhriatpuii,
Daughter of C. Lalsawivela,
Resident of Dawrpui, Aizawl,
Mizoram, PIN – 796001.

2. Andrew Lalhruitluanga,
Son of Late Albina Thangkhuma,
Resident of Thakthing, Aizawl,
Mizoram, PS: Kulikawn, PIN – 796005.

3. Ms. Lallawmkimi,
Daughter of Kawhluna,
Resident of Mission Veng, Aizawl,
Mizoram, PS: Kulikawn, PIN – 796005.

4. JH Lalparmawii,
Daughter of JH Hmangaihthanga,
Resident of Bawngkawn, Aizawl,
Mizoram, PS: Bawngkawn, PIN – 796014.

.....Petitioners

-Versus-

1. The Gauhati High Court, represented by the Registrar General, Gauhati High Court, Guwahati, Kamrup (Metro), Assam, PIN – 781001.

2. The Registrar, Gauhati High Court, Aizawl Bench, Aizawl, Mizoram, PIN – 796001.

3. The Registrar (Vigilance)-cum-in-charge, Recruitment Cell, Gauhati High Court, Guwahati, Kamrup (Metro), Assam, PIN – 781001.

4. The Secretary to the Government of Mizoram, Law & Judicial Department, Aizawl, Mizoram, PIN – 796001.

.....Respondents

– **BEFORE** –

HON’BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON’BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Petitioner(s) : Mr. K.N. Choudhury, Sr. Advocate, assisted by Mr. R.M. Deka, Advocate.

For the Respondent(s) : Mr. T.J. Mahanta, Sr. Advocate/ Standing Counsel, Gauhati High Court, assisted by Mr. P.P. Dutta and Ms. P. Sarma, Advocates for respondent Nos.1 to 3.

: Ms. P. Bhattacharya, Additional Advocate General, Mizoram for respondent No.4.

Date of hearing : 06.04.2026.

Date of Judgment : **06.04.2026.**

JUDGMENT & ORDER (ORAL)

(Ashutosh Kumar, CJ)

The challenge in this writ petition by 4(four) serving Judicial Officers of Mizoram Judicial Service is to the issuance of a Notification dated 17.11.2025 by the Registrar (Vigilance)-cum-In-charge, Recruitment Cell, Gauhati High Court, clubbing 1(one) vacancy/ post arising out of the 2(two) newly created posts of Grade-I Mizoram Judicial Service through the process of direct recruitment, which had already been initiated vide advertisement dated 21.05.2025, keeping all other

terms and conditions of the advertisement dated 21.05.2025 as well as the number of vacancy positions to be the same.

2. We have heard Mr. K.N. Choudhury, learned Senior Advocate, assisted by Mr. R.M. Deka, learned Advocate for the petitioners; Mr. T.J. Mahanta, learned Senior Advocate/Standing Counsel, Gauhati High Court, assisted by Mr. P.P. Dutta and Ms. P. Sarma, Advocates for respondent Nos.1 to 3 and Ms. P. Bhattacharya, learned Additional Advocate General, Mizoram for respondent No.4.

3. To state the background facts, an advertisement was issued earlier by the Gauhati High Court on 31.05.2024 for filling up of 1(one) vacant post of Grade-I in Mizoram Judicial Service. One of the eligibility criteria, amongst others, for the said post was that the candidate must be practicing as an Advocate in Courts of Civil and Criminal jurisdiction on the last date fixed for receipt of applications and must have practiced for a period not less than 7(seven) years as on the last date.

It would be relevant to state here that at the time of issuance of the afore-noted advertisement, the total sanctioned posts in the cadre of District Judge of Mizoram Judicial Service were 16(sixteen) and out of the said number of posts, 2(two) posts were earmarked to be filled up through Limited Departmental Competitive Examination (*hereinafter to be referred as "LDCE"*) and against which quota, 2(two) of the District Judges had already been serving. Against the posts earmarked for direct recruits, which was calculated at 4(four) in number, 4(four) District Judges had already been serving. However, the advertisement was issued because of the anticipated vacancy of 1(one) Shri Joel Joseph

Denga, a direct recruit who was to retire on 30.06.2024.

4. As against the said advertisement dated 31.05.2024, referred to above, 1(one) Ms. Abigail Hmingthanpari was selected and appointed vide order dated 19.03.2025. However, later, the said appointment was cancelled vide order dated 09.04.2025.

5. Being aggrieved by such cancellation, afore-noted Ms. Abigail Hmingthanpari filed WP(C) No.2271/2025 before this Court challenging the cancellation of her appointment.

6. In the meantime, the Supreme Court rendered its judgment in **All India Judges Association & Ors. -Vs- Union of India & Ors. :: 2025 SCC OnLine SC 1184** and directed as follows:-

“89. In view of the aforesaid discussion, we issue the following directions:

(i) All the High Courts and the State Governments in the country shall amend the relevant service Rules to the effect that the quota of reservation for LDCE for promotion from the cadre of Civil Judge (Senior Division) to the Higher Judicial Service is increased to 25%;

(ii) All the High Courts and the State Governments in the country shall amend the relevant service rules to the effect that the minimum qualifying service required to appear in the LDCE for promotion from the cadre of Civil Judge (Senior Division) to the Higher Judicial Service be reduced to 3 years' service as a Civil Judge (Senior Division) and the total service required to be undertaken, including service rendered as a Civil Judge (Junior Division) and Civil Judge (Senior Division), be set at a minimum of 7 years' service;

(iii) All the High Courts and the State Governments in the country shall amend the relevant service rules to the effect that 10% of the posts in the Cadre of Civil Judge (Senior Division) be reserved for accelerated promotion of Civil Judge (Junior Division) candidates through LDCE mechanism. The minimum qualifying service required for appearing in the said LDCE shall be three years' service as Civil Judge (Junior Division);

(iv) Needless to state that if any post reserved for LDCE for either Civil Judge (Senior Division) or for the Higher Judiciary remains vacant, the same shall be filled through regular promotion on the basis of 'merit-cum-seniority' in that particular year. Filling up of the vacant posts in the ratio considered for LDCE will have to be carried out from the simultaneous selection process carried out for regular promotions of the same year;

(v) The High Courts and the Governments of the States where the vacancies for the LDCE are not being calculated based on the cadre strength shall amend the relevant service rules to the effect that the vacancies for LDCE be calculated on the basis of cadre strength;

(vi) All the High Courts and the State Governments in the country where the Rules are not framed or if they are framed but are not adequate to judge the suitability of a candidate for being promoted to the Cadre of Higher Judicial Service from the Cadre of Civil Judge (Senior Division) shall frame fresh Rules or amend the existing Rules keeping in mind various factors like : (i) whether the candidate possesses updated knowledge of law; (ii) the quality of judgments rendered by the Judicial Officer; (iii) ACRs of the Judicial Officer of the preceding five years; (iv) disposal rate in the preceding five years; (v) performance of the Judicial Officer in the viva voce; and (vi) general perceptions and awareness as also communication skills;

(vii) All the High Courts and the State Governments in the country shall amend the relevant service rules to the effect that candidates desirous of appearing in the examination for the post of Civil Judge (Junior Division) must have practiced for a minimum period of 3 years to be eligible for the said examination. To fulfill the said requirement, the Rules shall mandate that the candidate produces a certificate to that effect duly certified either by the Principal Judicial Officer of that Court or by an advocate of that Court having a minimum standing of 10 years duly endorsed by the Principal Judicial Officer of such a District or a Principal Judicial Officer at such a station. Insofar as the candidates who are practicing before the High Courts or this Court, they shall be certified by an advocate who has a minimum standing of 10 years duly endorsed by an officer designated by that High Court or this Court. We further direct that the experience of the candidates which they have gained while working as Law Clerks with any of the Judges or Judicial Officers in the country should also be considered while calculating their total number of years of practice. The Rules shall also mandate that the candidates who are appointed to the post of Civil Judge (Junior Division) pursuant to their selection through the examination must compulsorily undergo at least 1 year of training before presiding in a Court;

(viii) It is directed that the number of years of practice completed by a candidate desirous of appearing in the examination for the post of Civil Judge (Junior Division) be calculated from the date of their provisional enrolment/registration with the concerned State Bar Council;

(ix) It is further directed that the said requirement of minimum years of practice shall not be applicable in cases where the concerned High Court has already initiated the selection process for the post of Civil Judge (Junior Division) prior to the date of this judgment and shall be applicable only from the next recruitment process; and

(x) All the amendments in terms of the aforesaid directions shall be carried out by the High Courts within a period of three months from the date of this judgment and the concerned State Governments shall consider and approve the same within a further period of three months.”

[Emphasis provided]

7. However, the respondent No.3 issued an advertisement dated 21.05.2025 for filling up of 2(two) posts in the Grade-I Mizoram Judicial Service, 1(one) against the resultant vacancy arising out of cancellation of appointment of Ms. Abigail Hmingthanpari and another anticipated vacancy of one Shri Vanlalenmawia, who was due to retire on 31.03.2026.

8. It may be noted here that pursuant to the directions of the Supreme Court in **All India Judges Association** (supra), the Mizoram Judicial Service (Seventh Amendment) Rules came to be notified on 24.02.2026, amending Rule 9 thereof and increasing the LDCE quota from 10% to 25%. Thereafter, on 20.08.2025, the Government of Mizoram created 2(two) new posts of Grade-I of Mizoram Judicial Service (District Judge cadre).

By this time, pursuant to the judgment of this Court in WP(C) No.2271/2025 passed on 14.10.2025, the cancellation of appointment of

Ms. Abigail Hmingthanpari was set aside in view of the judgment of the Supreme Court in ***Rejanish K.V. -Vs- K. Deepa & Ors. :: 2025 SCC OnLine SC 2196.***

9. Consequent upon such judgment, Ms. Abigail Hmingthanpari was reinstated to Grade-I of Mizoram Judicial Service, making the existing vacancy, which was advertised on 21.05.2025 limited and reduced to 1(one) for the anticipated vacancy of Shri Vanlalenmawia.

10. It appears that with the creation of 2(two) new posts in Grade-I of Mizoram Judicial Service vide Notification dated 20.08.2025, referred to above, the sanctioned strength of Grade-I posts in the State of Mizoram got increased to 18(eighteen) from 16(sixteen), out of which, under 25% quota, 4.5 posts fell under direct recruitment quota; 9(nine) posts under the regular promotion, and 4.5 posts under the LDCE quota in terms of percentage of quota as prescribed by the Supreme Court in ***All India Judges Association*** (supra).

11. The Gauhati High Court, considering all aspects of the matter, decided to round off the number 4.5 under direct recruitment quota in Grade-I of Mizoram Judicial Service to 5(five). Thus, 1(one) post out of the 2(two) newly created posts was clubbed with the 1(one) remaining vacant post for anticipated vacancy against the advertisement dated 21.05.2025 by a Notification dated 17.11.2025 issued under the signature of the respondent No.3. Thus, against the original advertisement dated 21.05.2025, now 2(two) posts were to be filled up.

12. This Court has been informed that by Notification dated

19.11.2025, considering that 2(two) posts were to be filled up, total of 21(twenty-one) candidates were called for appearing in the written examination, who all had crossed the Preliminary Examination stage.

13. It is the case of the respondent/High Court that the decision to fill up the newly created posts through the ongoing recruitment process was taken consequent to the amendment of the vacancy position after the judgment of the Supreme Court in **All India Judges Association** (supra).

Defending such clubbing, it has been submitted that in the advertisement dated 21.05.2025, it has clearly been stated that the number of vacancies is only indicative and may vary at the time of final selection.

The other reason to defend the afore-noted clubbing was that issuance of any fresh advertisement for filling up newly created posts would result in unnecessary burden on the High Court Administration and that there were no *mala fides* or arbitrariness or violation of any other fundamental or legal rights of anyone, much less the petitioners.

14. Mr. K.N. Choudhury, learned Senior Advocate for the petitioners, however, has submitted that the 2(two) newly created posts of Grade-I of Judicial Officers in Mizoram Judicial Service came into existence only after the judgment of **All India Judges Association** (supra), whereafter the service Rules were finally amended vide Notification dated 24.02.2026. In such circumstances, the posts which were created after the judgment of the Supreme Court, could not have been filled up by way of anticipated vacancy through the earlier advertisement dated 21.05.2025. The vacancy position in accordance with the earmarked quota had to be

recalibrated and not doing so, has created an imbalance.

That apart, Mr. Choudhury contends that the petitioners have been denied the opportunity of testing their respective merits for promotion under the LDCE quota.

15. The sum and substance of the argument of the petitioners is that the advertisement dated 21.05.2025 was limited for 1 (one) post only and that 1 (one) of the 2 (two) newly created post could not have been clubbed with that recruitment process for two reasons, namely – **(i)** the directive of the Supreme Court that 25% of the cadre should be filled up through LDCE, and **(ii)** there could be no recruitment against future vacancy. It could only be for existing and anticipated vacancy.

In support of the afore-noted arguments, reference has been made to the judgment of the Supreme Court in **Prem Singh & Ors. -Vs- Haryana State Electricity Board & Ors :: (1996) 4 SCC 319**, wherein it has categorically been held that the selection process by way of requisition/advertisement can be started for clear vacancies and also for anticipated vacancies but not for future vacancies. The State can deviate from the advertisements and make appointments on posts falling vacant in exceptional circumstances only or in any emergent situation and that too by taking a policy decision in that regard and not otherwise.

16. One of the directions in **All India Judges Association** (supra), as seen earlier, is that all High Courts and the State Governments in the country shall amend the relevant Service Rules to the effect that the quota of reservation for LDCE for promotion from the cadre of Civil Judge

(Senior Division) to the higher Judicial Service is increased to 25%. The Rules though came to be amended in the year 2026, before which the recruitment process vide advertisement dated 21.05.2025 having been issued for initially 2(two) posts but was reduced to 1(one) because of the reinstatement of Ms. Abigail Hmingthanpari. 2(two) new posts were definitely created before the amended Rules came into existence but much after the judgment in **All India Judges Association** (supra).

17. While issuing directions in **All India Judges Association** (supra), the Supreme Court though had clarified that all such recruitment processes which were kept in abeyance in view of the pendency of the proceedings before the it, the State in such circumstances shall proceed in accordance with the Rules which were applicable on the date of the advertisement/Notification. The contention of the petitioners appears to be correct that this savings would not apply to newly created posts increasing the total cadre strength of Grade-I Judicial Officers in the State of Mizoram.

18. The 25% quota for LDCE had to be calibrated afresh in accordance with the judgment and the amended Rules and 1(one) out of the 2(two) newly created post could not have been clubbed with the recruitment process which was kick-started with the advertisement dated 21.05.2024. 1(one) out of the 2(two) newly created post would not fall in the category of either “existing” or the “anticipated” vacancy but has to be treated as “future” vacancy, which cannot be clubbed with the earlier recruitment exercise.

19. The further contention on behalf of the petitioners is that both

the 2(two) newly created posts are required to be filled up against the LDCE quota.

20. We make it clear that we have only recorded the submissions made on behalf of the petitioners on this aspect of the matter without giving our opinion.

21. The only way to rectify the process now is to limit the number of vacancies to be filled against the advertisement of 21.05.2025 to 1 (one) post, which is for the anticipated vacancy of Shri Vanlalenmawia.

While saying so, we have taken note of the fact that only the Preliminary Examinations have been held and 21 (twenty-one) candidates have been called for written examination but that number was fixed keeping in mind 2(two) posts to be filled up.

22. The objection of the respondents regarding the maintainability of the writ petition is not sustainable. The maintainability of the writ petition has been questioned on the ground that Mizoram Judicial Service Association had earlier approached the Supreme Court by way of WP(C) No.144/2026, challenging the impugned Notification dated 17.11.2025 of clubbing of 1(one) post with the already advertised post, which was dismissed but on the ground that no case was made out for interference under Article 32 of the Constitution of India. Though it was contended by the respondents that no liberty was granted to the petitioner Association to approach this Court but since the petition was not entertained under Article 32 of the Constitution of India, we do not find the objection regarding maintainability of the present writ petition under Article 226 of the Constitution of India by these 4(four) service Judicial Officers of

Mizoram Judicial Service to be sustainable.

23. For the afore-noted reasons, we quash the Notification dated 17.11.2025, clubbing 1(one) more newly created post under Grade-I of Mizoram Judicial Service with the recruitment exercise initiated vide advertisement dated 21.05.2025.

24. The written examination, thus, shall be concluded, though with larger number of candidates, who have been successful in the Preliminary Examination, for only 1(one) post under Grade-I of Mizoram Judicial Service, which arises out of an anticipated vacancy.

Necessary notification in this regard need be issued by the respondent No.3 at the earliest.

25. The writ petition stands allowed to the extent indicated above.

JUDGE

CHIEF JUSTICE

Comparing Assistant