

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 930 of 2019

1. Shri Moirangthem Rajen Singh, aged about 50 years, S/O M. Mani Singh, resident of New Chekon, P.O. Imphal, P.S. Porompat and District Imphal East, Manipur-795001.
2. Shri Bashaspatimayum Kumar Sharma, aged about 51 years, S/O (L) B. Kulachandra Sharma, resident of Porompat Kshetri Leikai, P.O. & P.S. Porompat, and District Imphal East, Manipur-795005.
3. Smt. Salam Sanahanbi, aged about 57 years, D/O (L) S. Lakhichan Singh, resident of Kha Jiri Mamang Leikai, P.O. Bishnupur, P.S. Nambol and District Bishnupur, Manipur-795134.
4. Shri R.K. Ranjan Singh, aged about 55 years, S/O (L) R.K. Muktasana Singh, resident of Thoubal Achouba, P.O., P.S. and District Thoubal, Manipur-795138.
5. Shri Khadangbam Subol Singh, aged about 56 years, S/O K. Kanhai Singh, resident of Mongshangei Awang Leikai School Leirak, P.O. Canchipur, P.S. Singjamei and District Imphal West, Manipur-795003.

6. Smt. Sapam Parva Devi, aged about 55 years, D/O S. Kumar, resident of Sagolband Shayang Kuraou Makhong, P.O., P.S. and District Imphal, Manipur-795001.
7. Shri Maimom Maipak Singh, aged about 59 years, S/O (L) M. Mangi Singh, resident of Thoubal Haokha Mamang Leikai, P.O., P.S. and District Thoubal, Manipur-795138.
8. Mr. Phamitphang Ningshen , aged about 58 years, S/O Masahung Ningshen, resident of Ningchou Village, P.O. Chassao Kamjong, P.S. Chassao and District Ukhrul, Manipur.
9. Smt. Akoijam Memcha Devi, aged about 38 years, D/O Ak. Pishak Singh, resident of Thoubal, P.O., P.S. and District Thoubal, Manipur-795138.
10. Shri Konsam Indrajit Singh, aged about 51 years, S/O (L) K. Babudhon Singh, resident of Maniyaiskul, P.O. Lamlong, P.S. Lamlai and District Imphal East, Manipur-795010.
11. Shri Laishram Herojit, aged about 51 years, S/O L. Chaoba Singh, resident of Khurai Kongpal Ningthoubung Leikai, P.O.& P.S. Porompat and District Imphal East, Manipur-795005.
12. Laitonjam Nabadip Singh, aged about 53 years, S/O L. Tomba Singh, resident of Charangpat

Mayai Leikai, P.O., P.S. and District Thoubal, Manipur-795138.

13. Smt. Khoisnam Peto Devi, aged about 58 years, D/O Kh. Manao Singh, resident of Ngingom Thongjao, P.O. Canchipur, P.S. Singjamei and District Imphal West, Manipur-795001.

14. Smt. Wahengbam Manglembi Devi, aged about 57 years, D/O (L) W. Iboton Singh, resident of Mana Inkhol, P.O. Swombung, P.S. Lamlai and District Imphal East, Manipur-795010.

...Petitioners

-Versus-

1. The State of Manipur, through the Principal Secretary/ Commissioner/ Secretary, Textiles, Commerce and Industries, Govt. of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

2. The Director, Commerce and Industries, Govt. of Manipur, Office of the Directorate of Trade, Commerce & Industries, Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.

.... Respondents

BEFORE

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioners :: Mr. BP Sahu, Sr. Adv.,
Mr. Anjan Prasad Sahu, Adv.

For the Respondents :: Mrs. Ch. Sundari, GA

Date of Hearing and
reserving Judgment & Order :: 10.01.2023

Date of Judgment & Order :: **30.01.2023**

JUDGMENT AND ORDER
(CAV)

This writ petition has been filed by the petitioners to quash the impugned order dated 10.1.2019 passed by the second respondent and to regularize/absorb the services of the petitioners within a time frame.

2. The case of the petitioners is that they were initially engaged as skilled Artisans of various categories/trades, sweeper and demonstrator of the Department of Industries since the year 1981 up to the year 1994 and since then they have been serving in the same capacities, however, their wages have been revised from time to time. The petitioners have been drawing meager wages/pay and allowances with a legitimate expectation that their services shall be regularized by the respondent authorities. While so, on 14.7.2016, the Principal Secretary, Commerce and Industries, Government of Manipur,

addressed a communication to the Additional Director, Directorate of Employment Exchange requesting candidates for appointment of various categories of posts, including the posts in which the petitioners have been serving for decades together. Being aggrieved, the petitioners have filed W.P.(C) No.626 of 2016 to quash the said letter dated 14.7.2016 and to direct the respondents to regularize their services through a Screening Committee constituted exclusively for them. By the order dated 10.5.2018, this Court disposed of the writ petition with certain directions. Since the respondents failed to take action as per the order of this Court, the petitioners have filed Contempt Case (Civil) No.88 of 2019 and the same was closed on 20.8.2019 by recording the issuance of the impugned proceedings dated 10.1.2019. Challenging the same, the petitioners have filed this writ petition.

3. The respondents filed affidavit-in-opposition stating that the Finance Department, Government of Manipur issued an Office Memorandum dated 19.2.2005 prescribing a standard agreement for engagement on contract basis. Accordingly, the engagement of the petitioners on contract basis was made. There are sanctioned post of SA/Dem (D&T), SA/Dem (T&C), SA/Dem (Foundry), SA/Dem (Carpet

Weaving), SA/Dem (Weaving), SA/Dem (Carpentry) and SA/Dem (Blacksmithy) in the Department of Textiles, Commerce and Industries. However, the petitioners were not engaged against those sanctioned posts and they were engaged on daily wage basis. Further, no post creation/sanction orders was indicated in the engagement order. Besides, there is no sanctioned post of SA (Winder), Attendant (P/L) and SA (B&BM) in the Department in which petitioners 1, 7 and 14 were engaged respectively. Therefore, there is no question of the post held by the petitioners in the requisition letter dated 14.7.2016.

4. It is stated that pursuant to the order dated 10.5.2018 passed in W.P.(C) No.626 of 2016, the Director of Trade, Commerce and Industries, Manipur issued an order dated 10.1.2019 rejecting the claim of the petitioners, as they failed to fulfill the conditions. It is stated that framing of scheme for regularization of adhoc/officiating/substitute employees is within the wisdom and domain of the State Government. Only after thorough examination, the claim of the petitioners was rejected as they do not fulfill the conditions stipulated by this Court in the order dated 10.5.2018. Therefore, the petitioners

have no right to file the present writ petition and the same is liable to be dismissed.

5. Assailing the impugned order, Mr. Anjan Prasad, the learned counsel for the petitioners submitted that while rejecting the case of the petitioners, the second respondent has failed to consider the direction of this Court passed in the earlier writ petition. He would submit that the act of the second respondent rejecting the claim of the petitioners for regularization to their respective posts is unacceptable, as the petitioners have been engaged in the said posts for 2-3 decades together and in spite of being fulfilled the conditions set forth by this Court.

6. Explaining further, the learned counsel for the petitioners further submitted that the order dated 10.5.2018 passed in W.P.(C) No.626 of 2016 lays down two alternative conditions for regularization i.e. qualified/affirmative for condition (a), (b) and (c) or affirmative for condition (d) which also contains two parts. Thus, the impugned order is not in consonance with the direction of this Court.

7. The learned counsel added that one K.Birjit Singh, who was serving as skill Artisan (Bamboo and Cave) on

contract basis, was regularized to the said post on skill Artisan (Bamboo and Cave) in the time scale of pay with usual allowances with effect from the date of issuing duty against the post created vide order dated 3.3.1978.

8. The learned counsel for the petitioners urged that they were initially engaged to their respective posts between the month of September, 1981 and August, 1996. As such, they have been continuously discharging their duties to their respective posts on engagement basis decades together by getting meager wages with the hope and trust that their services will be absorbed by the respondent authorities in due course. Therefore, the petitioners are entitled to be regularized for being a regular employee of the Department of Commerce and Industries, Government of Manipur prior to their attaining the age of superannuation. In support, the learned counsel placed reliance upon the order dated 18.7.2022 passed by this Court in W.P.(C) No.289 of 2021.

9. Per contra, Mrs. Ch. Sundari, the learned Government Advocate submitted that the contract engagement of the petitioners was made with the second respondent after obtaining approval of the Committee of officers for such

engagement. When the petitioners entered into their services, an agreement was entered between the petitioners and the State Government on which it is clearly mentioned that the petitioners cannot claim for regularization of their services.

10. The learned Government Advocate further submitted that the regularization of K.Birjit Singh and 8 others were done in compliance with the orders of the High Court, whereas the prayer of the petitioners for regularization of their casual/contract basis could not be considered by the respondent authorities as stated in the impugned order dated 10.1.2019. In fact, the case of the petitioners has been examined very carefully as per the direction of this Court in W.P.(C) No.626 of 2016 and therefore, there is no illegality in it. Thus, a prayer has been made to dismiss the writ petition.

11. This Court considered the rival submissions and also perused the materials available on record.

12. Before dealing with the issue involved, it is to be mentioned that the petitioners 6 and 12 herein have earlier filed W.P.(C) No.289 of 2021 challenging the very same impugned order dated 10.1.2019. Therefore, challenging the impugned order dated 10.1.2019 again by the said petitioners in the

instant writ petition is not permissible. The learned counsel for the petitioners has also agreed for the dismissal of the writ petitions as far as petitioners 6 and 12 are concerned. In view of the above, the writ petition in respect of the petitioners 6 and 12 is dismissed. Thus, the writ petition remains to be decided in respect of the petitioners 1 to 5, 7 to 11, 13 and 14.

13. The grievance of the petitioners is that the first petitioner was initially engaged as Skill Artisan (Brass and Bell Metal) vide order dated 23.9.1993; the second petitioner was engaged as Demonstrator/Skill Artisan (Blacksmithy) vide order dated 24.6.1993; the third petitioner was engaged as Demonstrator (Weaving) vide order dated 22.2.1994; the fourth petitioner was engaged as Casual Demonstrator (Blacksmith) for a period of 3 months at the approved rate vide order dated 23.9.1991; the fifth petitioner was engaged as Skill Artisan (Doll & Toys) for a period of three months with effect from 8.9.1982 with the permission to pay the paid holiday on the Sunday for working of 6 consecutive days in a week of the month vide order dated 1.9.198; the seventh petitioner was initially engaged as Sweeper vide order dated 21.8.1982; the eighth petitioner was engaged to the post of Demonstrator (Tailoring) on payment of Rs.350/- per month for a period of 3 months vide order dated

21.8.1984; the ninth petitioner was engaged as Demonstrator (Weaving) on consolidated scale of pay; the tenth petitioner was engaged as Skill Artisan (Carpentry) vide order dated 9.8.1996; the eleventh petitioner was engaged as Skill Artisan (Carpet) on payment of Rs.13.40 per day vide order dated 20.7.1988; the thirteenth petitioner was engaged as Skill Artisan at the rate of 9.50 per day for a period of three months with effect from 8.9.1981 with permission to pay the paid holiday on Sunday for the working of 6 consecutive days in a week of the month vide order dated 1.9.1981 and the fourteenth petitioner was engaged as Skill Artisan (Winder) at the rate of Rs.8/- per working day for a period of three months with effect from the date of joining his duties with the permission to pay the paid holiday for working of 6 days continuously in a week of the month vide order dated 15.5.1982. According to the petitioners, pursuant to the issuance of the said appointment/engagement orders, the petitioners 1 to 5, 7 to 11, 13 and 14 have joined their duties to their respective places of postings and started to discharge their duties to the fullest satisfaction of their superior officers and there has been no adverse remark to the services rendered by them from any quarters. The respondent authorities extended the terms of contract engagement of the petitioners from time to

time by issuing orders and wages of the petitioners have also been revised by the authorities from time to time.

14. The further grievance of the petitioners is that one K.Birjit Singh who was serving as Skill Artisan (Bamboo and Cave) on contract basis was appointed/regularized to the said post in the time scale of pay with usual allowances vide order dated 28.7.1998 by the Director of Commerce and Industries, Government of Manipur. Similarly, as many as 8 persons who were serving as Muster Roll/Casual basis of the Department of Commerce and Industries were also regularized to the post of Demonstrator/Skill Artisan (PINA) in the time scale of pay. However, the petitioners have not been considered for regularization/absorption till date. The petitioners have been continuously discharging their duties with the hope that their services would be regularized in due course.

15. It is to be noted that earlier when the Director of Commerce and Industries requested for requisition of candidates for appointment to various posts from open market, including the posts in which the petitioners have been engaging for decades together, the petitioners herein have filed W.P.(C) No.626 of 2016 for quashing the said letter dated 14.7.2016 and

also for issuing a mandamus to direct the respondents to regularize their services through a Screening Committee.

16. By the order dated 10.5.2018, this Court disposed of the said writ petition. The operative portion of the order reads thus:

“[11] In view of the above, the instant writ petition is disposed of with the following directions:

(a) The Respondents and in particular, the respondent No.2 shall verify as to whether the petitioners were engaged against the sanctioned posts;

(b) The respondents and in particular, the respondent No. 2 shall verify as to whether the petitioners were eligible for appointment as per the then existing recruitment rules at the time when they were initially engaged against the posts being held by them;

(c) The respondents and in particular, the respondent No. 2 shall verify as to whether the petitioners have served by now, for more than ten years without the benefit or protection of the interim order or any court or tribunal;

(d) The respondents and in particular, the respondent No. 2 shall verify as to whether the

petitioners are similarly situated with Shri K. Birjit Singh who has been appointed as Skill Artisan (Bamboo & Cane) vide Order dated 03.03.1978 or with the said eight persons who have been appointed to the posts of Demonstrator/Skill Artisan (PINA) vide Order dated 25.06.2010 issued by the Principal Secretary (Commerce & Industries). Government of Manipur:

The aforesaid exercise shall be done within a period of thirty days from the date of receipt of a copy of this judgment and order and in case the answers to the directions (a) to (c) above are in the affirmative, the petitioners shall be regularised by the State Government within two months thereafter or alternatively, in case the answer to the direction (d) is in affirmative, the petitioners shall be regularised by the State Government within two months thereafter."

17. As rightly argued by learned counsel for the petitioners, the order dated 10.5.2018 speaks about two alternative conditions for regularization i.e. qualified/affirmation for condition (a), (b) and (c) or affirmative for condition (d), which also contains two parts., which reads thus:

- “(a) Whether the petitioners were engaged against the sanctioned post, or*
- (b) Whether they were eligible for appointment as per the then recruitment rules at the time when they were initially engaged against the posts being held by them, or*
- (c) Whether the petitioners have served, by now, for more than ten years without the benefit or protection of the interim order of any Court or Tribunal and*
- (d) Whether the petitioners are similarly situated with Shri K.Birjit Singh who has been appointed as Skill Artisan (Bamboo & Cane) vide order dated 3.3.1978 or with the said eight persons who have been appointed to the posts of Demonstrator/Skill Artisan (PINA) vide order dated 25.6.2020.”*

18. Pursuant to the directions of this Court, the Director, Trade, Commerce and Industries, Government of Manipur passed the impugned order dated 10.1.2019 and in paragraphs 4 and 5, it has been stated as under:

“4. Whereas none of the petitioners fulfil the condition at (a) of the directions of the High

Court even though there were some candidates who satisfy condition at (b) & (c). As such, the answer to the directions (a) & (c) is not affirmative and there will be no question of issue of regularization order on account of the first condition of the directive of the Hon'ble High Court.

5. Whereas, the present petitioners were engaged and their terms of engagement were extended from time to time with one day gap in a year. Therefore, technically, their engagement were not extended but re-engaged for another year, each after the lapse of previous engagement and as such, they were last engaged for 1 (one) year only against the continuous engagement for 20 years in respect of 8 (right) persons. before their regularization. Similarly, Shri K. Birjit Singh was engaged as Skilled Artisan (Bamboo & Cane) against sanction post and had been working continuously for twelve years without any break and he was not lacking requisite qualification prescribed under the RR. Therefore, engagement of the petitioners is not similarly situated with that of the 8 (eight) persons under consideration nor with Shri K. Birjit Singh. In this regard, the 2nd part of the second condition as stated at Para 1(d) mentioned above is not affirmative and

the petitioner does not satisfy the condition of the directive of the Hon'ble High Court."

19. Two conditions emanate from the above order, namely (1) whether the petitioners qualify conditions (a), (b) and (c); and, (2) whether the petitioners are similarly situated with K.Birjit Singh who has been appointed as Skill Artisan (B&C) vide order dated 3.3.1978 or with the said eight persons who have been appointed to the posts of Demonstrator/Skill Artisan (Pina) vide order dated 25.6.2010.

20. Insofar as condition (a) is concerned, it appears that the petitioners herein as well as the position of K.Birjit Singh and eight other incumbents regularized is similar, inasmuch as they were initially engaged in similar manner and under similar terms and conditions and they were not engaged against any sanctioned post and subsequently, the posts were created.

21. If we consider condition (b), the petitioners were eligible as per the then existing Recruitment Rules and that is why in the impugned order the second respondent stated that "as such, the answer to the directions (a) & (c) is not affirmative and there will be no question of issuance of regularization order

on account of the first condition of the directive of the Hon'ble High Court."

22. As far as condition (c) is concerned, the petitioners have served for more than 10 years. The petitioners were appointed between 1981 and 1994 respectively and they have also completed 10 years of service.

23. Coming to the comparison of the petitioners with K.Birjit Singh, K.Birjit Singh was engaged as Skilled Artisan (B&C) on 18.6.1986 for a period of one month and his engagement was extended from time to time. K.Birjit Singh approached the Gauhati High Court by filing Civil Rule No.179 of 1995, inter alia, praying for regularization of his service as Skilled Artisan. By the order dated 5.2.1998, the Gauhati High Court disposed of the case. The operative portion of the order reads thus:

"6. By now, the petitioner has been working as Skilled Artisan (Bamboo & Cane) for almost 12 years. He is entitled to be regularized in the post. The respondents are therefore, directed to regularize the service of the petitioner immediately if there is any post in existence and in the event there is no post in existence, he shall be regularized in the immediate future

vacancy that may arise. Till regularization of his service, petitioner shall not be ousted from the post that he is holding.”

24. It is seen that vide order dated 20.7.1998, the Directorate of Commerce and Industries, appointed K.Birjit Singh to the post of Skilled Artisan (B&C) by creating the said post as Md. Kumar Jaman, Skilled Artisan (B&C) retired on 31.1.1994.

25. Insofar as 8 other incumbents whose services have been regularized vide order dated 25.6.2010 is concerned, they were initially engaged in the year 1972-75-76-77 in the similar manner as that of the petitioners. They have also approached the Gauhati High Court by filing Civil Rule No.778 of 1993 and by the order dated 17.8.1995, the said case was disposed of. The operative portion of the order is extracted hereunder:

“Accordingly, this writ application is allowed. The respondent No.2 and 3 are directed to regularize the services of the petitioners within a period of three months from the date of receipt of this order. Regularisation shall be done by the authority in such manner so that the petitioner at the end of their service is

entitled to have something as pensionary benefit or retiral benefits otherwise if they are regularized simply, they will have nothing in the end of their service carrier. So the authorities shall regularize the services of the petitioner from back date by giving them only retirement benefit so that they get pensionary benefits. None of the petitioners shall be thrown out from the service in the meantime.”

26. The learned Government Advocate argued that there was a gap in the engagement of the petitioners, whereas K.Birjit Singh and 8 other incumbents who were regularized were engaged against the sanctioned posts and there was no gap in their service records and also the Recruitment Rules were also fulfilled by K.Birjit Singh and 8 others. Therefore, the petitioners cannot compare the case of K.Birjit Singh. Nothing has been produced by the respondents to show that the engagement of K.Birjit Singh and 8 others was against the sanctioned posts.

27. On the other hand, the learned counsel for the petitioners submitted that the artificial break of one day in the continuous service is arbitrary. He also pointed out that the one day gap only came into existence only after implementation of

the Office Memorandum dated 19.2.2005, wherein it has been directed that engagement of person on contract basis by various Department should be done on the prescribed standard agreement format and no other engagement orders, letters etc. shall be issued by any authority.

28. In *All Manipur Government Arts & Culture Department v. State of Manipur and others*, (2011) 4 GLT 864, the Guahati High Court held thus:

“7. For the foregoing decision, this Court is of the considered view that artificial break of one day in the continuous service of the members of the petitioner Union as casual/contract employees in the Arts & Culture Department, Govt. of Manipur, is arbitrary. Accordingly, this Court has no alternative except to direct the State respondents not to create artificial one day's break i.e. 01.11.2003 in extending the term of the services of the members of the petitioner Union as casual/contract employees while issuing the impugned order dated 30.8.2005 and necessary extension order should be issued by the respondents for not creating artificial one day's break i.e. 01.11.2003 in extending the term of the services of the members of the petitioner Union as casual/contract employees within a

period of three months from the date of receipt of a certified copy of the judgment and order of this Court, which is being furnished by the petitioner Union within a period of 10(ten) days from today to the Director of Arts & Culture Department, Govt. of Manipur. 8. To the extent indicated above, this writ petition is allowed.”

From the above, it is clear that there should not be artificial break of one day.

29. It is to be mentioned that K.Brijit Singh, was engaged for one month in the year 1986, whereas some of the petitioners herein were engaged during 1981. As stated supra and as could be seen from the records, the petitioners herein are serving since the year 1981 to the posts in which they were engaged.

30. At this juncture, the learned Government Advocate submitted that that the Court/Tribunal cannot direct regularization of temporary appointees' de hors the rules.

31. It is not the case of the respondents that the very engagement/appointment of the petitioners is illegal. In the case on hand, the appointment/initial engagement of the petitioners is not under challenge and there is also no illegality

in the initial appointment. That apart, when similar challenge was made in W.P.(C) No.289 of 2021, this Court, by the order dated 7.6.2022, quashed the impugned order dated 10.1.2019. The operative portion of the order is extracted hereunder:

“39. In the result, the writ petition is allowed.

- (a) The impugned order dated 10.1.2019 declining regularization of the petitioners is set aside.
- (b) The respondents are directed to regularise the services of the petitioners and extend the similar service benefits received by K.Birjit Singh and 8 other incumbents.
- (c) The said exercise is directed to be completed within a period of four months from the date of receipt of a copy of this order. No costs.”

32. It is seen that as against the order dated 7.6.2022 passed in W.P.(C) No.289 of 2021, no appeal has been filed by the respondents and nothing has been produced by the respondents to show that the said order has been stayed by the appellate Court. In the absence of any appeal and/or stay

order, the judicial discipline warrants this Court to follow the order dated 7.6.2022 passed in W.P.(C) No.289 of 2021.

33. At this juncture, the learned Government Advocate, by placing reliance upon the decision of the Hon'ble Supreme Court in the case of *Union of India and others v. Ramesh Gandhi*, (2012) 1 SCC 476, submitted that the said order dated 7.6.2022 has been obtained by playing fraud on Court and, therefore, the same cannot be taken into account.

34. It is trite law that a judgment obtained by playing fraud on the Court is a nullity and is to be treated as non-est by every Court. Further, the judgment obtained by non-disclosure of all necessary facts tantamounts to a judgment obtained by fraud.

35. In the instant case, nothing has been produced by the respondents to show that by playing fraud, the petitioners in W.P.(C) No.289 of 2021 have obtained orders in their favour. On the other hand, this Court, after a detailed discussion and upon considering the arguments put forth by the respective counsel, passed the order dated 7.6.2022. Therefore, it cannot be contended by the learned Government Advocate that the order dated 7.6.2022 was obtained by playing fraud. That apart,

in the facts and circumstances of the case involved herein, the decision in the case of *Ramesh Gandhi*, supra, relied upon by the learned Government Advocate is not applicable to the case on hand.

36. It is apposite to mention at this juncture that the initial engagement of K.Birjit Singh was not against any sanctioned post and after completion of 12 years continuous service and in compliance with the order dated 5.2.1995, his service was regularized on 20.7.1998. In the counter, the second respondent admitted that regularization of K.Birjit Singh and 8 casual workers by the Department were done in compliance of the Court orders. The petitioners who were appointed between the year 1981 and 1994 have already completed 10 years of service respectively. With respect to the 8 other incumbents who were engaged in the year 1972-75-76-77, the impugned order dated 10.1.2019 states that they have been engaged for continuous period of 20 years.

37. It is seen that the petitioners have also completed 20 years of continuous engagement. Therefore, the impugned order stating that engagement of the petitioners is not similar to that of K.Birjit Singh is erroneous and is liable to be set aside.

It is also seen from the records that in the span of 12 years from the date of initial date of engagement, there has not been any one day break in service.

38. The petitioners have legitimate expectation for being regular employees of the Department prior to their attaining the age of superannuation and therefore, the respondents are bound to consider their cases for regularization/absorption to their respective posts. Many ad-hoc/officiating/substitute employees have been regularized to their respective posts by the State Government by formulating various schemes in respect thereof including the one relating to conversion from the work-charged to regular establishment and the fact that the petitioners have not yet been regularized/absorbed had shown that they were being discriminated. As stated supra, there is also no dispute that the petitioners were engaged as Skill Artisans etc. and their engagements were extended from time to time. As a result of which, they have been continuing in that capacity till date.

39. When similarly situated persons have been granted the benefit of regularization, the petitioners were discriminated. Therefore, this Court finds merit in the writ

petition. That apart, while passing the impugned order dated 10.1.2019, the second respondent ignored the said aspects of the matter and had passed a mechanical order. On the other hand, the petitioners have fulfilled the conditions for regularisation. Therefore, there are grounds to interfere with the impugned order. Since the impugned order cannot be sustained in the eye of law, the same is liable to be quashed.

40. In the result,

- (i) *The writ petition is allowed in respect of the petitioners No. 1, 2, 3, 4, 5, 7, 8, 9, 10 & 11 and dismissed against the petitioners No. 6 and 12.*
- (ii) *The impugned order dated 10.1.2019 declining regularization of the services of the petitioners No. 1,2,3,4,5,7,8,9,10 and 11 is set aside.*
- (iii) *The respondent authorities are directed to regularise the services of the petitioners No. 1,2,3,4,5,7,8,9,10 and 11 and extend to them similar service*

*benefits received by K.Birjit Singh
and 8 other incumbents.*

(iv) *The said exercise is directed to be
completed within a period of four
months from the date of receipt of a
copy of this order.*

(v) *There will be no order as to costs.*

JUDGE

FR/NFR

Sushil