

Serial No.40
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 231 of 2022

Date of Order :04.07.2023

Smti. Fasility Sumer Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv.
Mr. W.G.R.Mihsill, Adv.

For the Respondent(s) : Ms. A.Thungwa, GA.
Mr. J.N.Rynjah, GA.

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

(ORAL)

1. This writ petition concerning a prayer for regularization is the second round of litigation brought by the writ petitioner before this Court. In the earlier writ petition, this Court vide order dated 16-12-2020, passed in a bunch of writ petitions being WP(C). No. 431 of 2020, WP(C). No.

433 of 2020, WP(C). No. 434 of 2020, WP(C). No. 435 of 2020, WP(C). No. 436 of 2020 and WP(C). No. 437 of 2020, which included WP(C). No. 436 of 2020 of the writ petitioner had disposed of the same by directing the respondents to consider the cases of the writ petitioners therein for regularization.

2. It is the pointed submission of Mr. Philemon Nongbri, learned counsel for the petitioner, the fact that the orders that had been passed specifically rejecting the case of the petitioner was never communicated to her. He submits that the only information that was in the possession of the writ petitioner was that the other writ petitioners' cases were considered and their regularization was approved, which however, was not accorded to the writ petitioner. It has further been submitted that only after the affidavit had been filed by the State respondents in this case that the said orders came to light, namely, order dated 27th August, 2021 and 11th October, 2021 (annexed as Annexure -4 and 5 to the affidavit), that conveyed the specific rejection of the petitioner's case. Learned counsel also submits that as these orders were never made available to the writ petitioner, the same could not be challenged in the instant writ petition. He however, prays that consideration be given to the writ petitioner, inasmuch as, she has been serving continuously since the year 1994 to 2000 as

Muster Roll, from 2000 to 2005 as Work-Charge, where after she served against a regular vacancy of Khalasi, till date.

3. Ms. A.Thungwa, learned GA appearing for the State respondents in reply submitted that the case of the petitioner has been considered and due to the cut of date which is 1997, as per the RCW Scheme, as the petitioner had not been in service for 10 years prior, she was not entitled to regularization. She further submits that since 1997, as had been directed by the Secretary to the Govt. of Meghalaya, Finance (Pay Revision) Department, by order dated 27th October, 1997, instructions had been given that no Work-Charged appointment should be done after the said date, and that the petitioner was however appointed as Work-Charge in the year 2000, which is in contravention of the said direction. She also submits that the petitioner not having made out a case for regularization is not entitled to the same.

4. Heard learned counsel for the parties. The fact that the petitioner has been serving since 1994, initially as Muster Roll cannot be ignored, or that it is through no fault of hers that she was placed in the Work-Charged establishment in the year 2000. Be that as it may, in view of the fact that the petitioner was not made aware of the specific orders whereby her prayer had been rejected, she is permitted to file representation before the concerned authorities against the two orders, which shall then be

considered taking into account the petitioner's long service in accordance with law.

5. Petitioner to present the representation preferably within 2 weeks along with a copy of this order. It is expected that the representation be disposed of as expeditiously as possible, preferable within the period of 3 months from the date it is presented.

6. Accordingly, matter stands disposed of.

Meghalaya
04.07.2023
"Samantha PS"

Judge

