

Serial No. 41
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 564 of 2019

Date of Decision: 20.06.2023

Smti. Dil Kumari Chettri

Vs.

State of Meghalaya & Ors.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) :

Ms. C.B. Sawian, Adv.

Ms. R. Kharshiing, Adv.

For the Respondent(s)

Mr. K.P. Bhattacharjee, GA

Ms. Z.E. Nongkynrih, 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 |

JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court for regularization and absorption of her service as Cleaner in the Office of the respondent No.

4.

2. The case of the petitioner is that vide order dated 19th July, 1993, she was appointed as Cleaner on casual basis on a monthly payment of Rs.1000/- (Rupees One Thousand only) per month, w.e.f. 1st April, 1993. The appointment as shown in the order was purely temporary. Thereafter, after serving for a period of 26 years, the writ petitioner on 18.02.2019, preferred a representation before the respondent No. 5, praying for regularization of her service in the said post. The further case of the petitioner is that she has become eligible for absorption as per the Meghalaya Regular Casual Workers Scheme, 1996.

3. Ms. C.B. Sawian, learned counsel for the petitioner has drawn the attention of this Court to the first appointment order and also to an order dated 04.11.1999, whereby the writ petitioner has been directed to attend duties for working hours from 8 AM to 2 PM daily. She further submits that as she was employed as a casual worker and serving long hours in the said post, the writ petitioner is therefore entitled for consideration and conferment of the status of her Regular Casual Worker.

4. Mr. K.P. Bhattacharjee, learned GA for the State respondents in his reply submits that the petitioner is not entitled to the benefit of conferment of the RCW status, inasmuch as , her initial appointment was not as a casual worker, though the order reflects so, but was purely as a part-time Cleaner, with limited working hours from 8 AM to 10 AM. He

further submits that the status being such, the writ petitioner would not have come within the definition of a casual worker and has been brought into the casual worker as Cleaner only on November, 2021 and her salary has been paid with the latest minimum wages for unskilled labourers. He further submits that to be eligible to be considered for conferment of RCW status, an employee should have served for not less than 10 years of continuous service in the same post. Hence, he submits that the writ petitioner will be entitled for conferment of the status only in the year 2031.

5. Heard learned counsels for the parties. A bare perusal of the materials as placed before this Court, reflects that the petitioner was appointed as far back as on 19th July, 1993 and has been serving continuously in the same post, whether as part-time or with for longer hours, which cannot be discerned by this Court, at this juncture. Though arguments has been made by the respondents that the writ petitioner though appointed as casual Cleaner will not come within the zone for consideration of RCW Scheme, as she was not an adhoc appointee or a work charge staff, this Court on further examination of the documents as placed, finds that there is no nexus with the averments in the affidavit with regard to the work charged status *vis-à-vis* the service conditions of the writ petitioner.

6. An additional affidavit has also been filed by the State respondents, whereby the earlier instructions aforementioned has been brought on record. Today, further documents have been produced by the State respondents, with regard to the factum of the revision of wages of the writ petitioner, as part time Cleaner. The same are also noted.

7. Looking into the totality of the circumstances, the undisputed fact is that the writ petitioner by the initial appointment order was appointed as a Cleaner on a casual basis, though on a consolidated monthly pay of Rs.1000/- (Rupees One Thousand only), which was later enhanced to Rs.5000/- (Rupees Five Thousand only), and thereafter was put under the minimum wages as applicable. Though, it cannot be distinctly ascertained as to the status of service of the petitioner, as to whether she was employed strictly as part-time or whether she discharged her duty as a casual worker having longer hours, this Court is of the view, that looking into the length of service and kind of duty discharged by the writ petitioner due consideration is to be given. Taking into the account the Meghalaya Regular Casual Workers Scheme, 1996, wherein it has been '*inter alia*' stipulated that it shall apply to casual workers employed in the departments and offices of the Government of Meghalaya, at Explanation 2(a), a casual worker has been defined as follows,

“Explanation :-

2. For the purpose of the Scheme :-

a) “Casual Worker” means a person who by any nomenclature called is employed for doing work on a daily wage basis.”

8. It would therefore be in the fitness of things, if the respondents are directed to consider the case of the petitioner for conferment of RCW status as per the Scheme, taking into account the nature of appointment and long years of service of the writ petitioner. The respondents shall complete the said exercise for consideration of the petitioner’s service for conferment of RCW status within 3(three) months.

9. Writ petition stands allowed to the extent indicated above and is accordingly disposed of.

10. No order as to costs.

Judge

Meghalaya
20.06.2023
“D.Thabab-PS”