

GAHC010098732021



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

Case No. : WP(C)/3223/2021

LAKESH TAYE
S/O HEMO KT TAYE
RESIDENT OF ROTKEY, JONAI
DIST DHEMAJI
ASSAM, 787060

VERSUS

THE ASSAM POWER DISTRIBUTION CO. LTD. AND 5 ORS.
REPRESENTED BY ITS CHAIRMAN, APDCL, BIJULEE BHAWAN, GHY 01

2:THE MANAGING DIRECTOR
APDCL
BIJULEE BHAWAN
GHY 01

3:THE CHAIRMAN OF THE SELECTION COMMITTEE-B
APDCL/AEGCL/APGCL FOR THE SELECTION OF VARIOUS POSTS

4:THE CHIEF GENERAL MANAGER HRA

APDCL
BIJULEE BHAWAN
GHY 01

5:THE CHIEF EXECUTIVE OFFICER

DHEMAJI/LAKHIMPUR ELECTRICAL CIRCLE
APDCL
DHEMAJI
ASSAM

6:THE SUB DIVISIONAL ENGINEER

JONAI ELECTRICAL SUB DIVISION
APDCL
DHEMAJI
ASSA

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

31.07.2023

Heard Mr. B.K. Das, learned counsel for the petitioner and Mr. B. Choudhury, learned Standing Counsel, APDCL.

2. This writ petition has been filed by the petitioner who claimed to be working as Out-sourced Sahayak in the APDCL in the establishment of Jonai Sub Divisional Engineer, Jonai Electric Sub-Division, APDCL, Jonai.

3. It is submitted that the petitioner has rendered continuous service for more than 10 years. The petitioner was engaged as a Sahayak in APDCL on contractual basis since the year 2009. Thereafter, he has been issued engagement letters for the work as Out-sourced worker from time to time. However, his prayer for regularization was not considered and the petitioner has thereafter, approached this Court praying for initiating the process for regularization of his service. The learned counsel for the petitioner has referred to order passed by this Court in other matters. A Co-ordinate Bench of this Court by order dated 23.02.2021 disposed of the writ petition with the following directions:

“10. Accordingly, the respondent APDCL is directed to consider the cases of the individual petitioners and if they are found to have been working for more than 10

years up to the judgment of Umadevi (supra) i.e. 10.04.2006 and were working against the sanctioned vacant post, an onetime measure may be made for their regularization. If any of the petitioners are found not to have worked for more than 10 years upto 10.04.2006, but have worked for more than 10 years in the meantime, the respondents may consider them for a benefit of providing them the salary atleast in the minimum pay scale that are otherwise payable to an equivalent regularly appointed employee, which again would be consistent with the directions of the Division Bench of this Court in the judgment dated 08.06.2017 passed in WA 45/2014.

11. As regards any of the petitioners who may not have satisfied the requirement of having worked continuously for 10 years, we request the respondent APDCL to also consider their case and find out a suitable economic package for them as per the acceptability of the respondent APDCL. Ordered accordingly."

4. The learned counsel appearing for the respondent, Mr. B. Choudhury, does not dispute the contentions raised by the petitioner and submits that the writ petition can be closed on the basis of the orders passed by the Co-ordinate Bench and thereafter the authorities will consider the case of the petitioner with other similarly situated persons in terms of the direction contained in Paragraph Nos. 10 & 11 of the Judgment of the order dated 23.02.2021 passed in W.P(C) No. 1351/2020.

5. After due perusal of the pleadings on record as well as the orders passed by the Co-ordinate Bench, it is seen that the grievances of the petitioner are similar to those raised in WP(C) No. 1351/2020 and the same was of by the Co-ordinate Bench by the Judgment dated 23.02.2021.

6. Considering the submissions raised by the learned counsels for the parties as well as upon careful perusal of the Judgment dated 23.02.2021 passed in W.P(C) No. 1351/2020 and also considering the grievances raised in the writ petition, this Court is of the view that the present petition can also be closed in terms of the

orders passed by Co-ordinate bench of this Court.

7. Accordingly, this writ petition is disposed of with a direction to the APDCL to consider the case of the petitioner. If the petitioner is found to be working for more than 10 years up to the Judgment of State of Karnataka Vs. Umadevi & Ors, reported in (2006) 4 SCC 1 which is 10.04.2006 and also if he was found to be working against a sanctioned vacant post, then the APDCL shall take up as an onetime measure the process for regularization of the services of the petitioner. If the petitioner has been found to have not worked for more than 10 years upto 10.04.2006 but has worked for more than 10 years in the meantime, the respondent authorities may consider his case for the benefit of providing salary of the minimum pay-scale which are otherwise payable to the other regularly appointed employees. Such a course would be upon to the authorities in view of the Judgment dated 08.06.2017 passed by Division Bench of this Court passed in W.A No. 45/2014 as well as the law laid down by the Apex Court in State of Punjab Vs. Jagjit Singh reported in (2017) 1 SCC 148.

8. It is also made clear that if petitioner who may not have satisfied the requirement of having worked continuously for 10 years, the authorities shall sympathetically consider his case and find out any suitable economic package for him as per the norms applicable to the APDCL as well as other relevant Government orders/circulars.

9. In terms of the above, the writ petition stand disposed of.

10. Interim order, if any, stands merged.

JUDGE

Comparing Assistant