

GAHC010223552021



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

Case No. : WP(C)/7213/2021

MEZO MOTONYU KUOTSU
S/O- SRI BIZO M. KUOTSO, R/O- PHESAMA VILLAGE, HOUSENO. 11, PIN-
797001, KOHIMA, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 10 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT OF NAGALAND , KOHIMA

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND
KOHIMA

3:THE ADDITIONAL SECRETARY
TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND
KOHIMA

4:THE JOINT CONTROLLER AND HOD
DEPARTMENT OF LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND
KOHIMA

5:THE ASSISTANT CONTROLLER AND HOD
DEPARTMENT OF LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND
KOHIMA

6:THE PRINCIPAL SECRETARY

TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
NAGALAND.

7:THE ACCOUNTANT GENERAL
NAGALAND
KOHIMA.

8:MS. MHARHONI Z MURRY
D/O. SRI ZUBENTHUNG MURRY

O/O THE ASSISTANT CONTROLLER
LEGAL METROLOGY AND CONSUMER PROTECTION
DIMAPUR-797112
NAGALAND.

9:SRI YEMJONG B. N. CHANG
S/O. SRI BENSOSIKUM CHANG

O/O. THE ASSISTANT CONTROLLER OF LEGAL METROLOGYAND
CONSUMER PROTECTION
TUENSANG-798612
NAGALAND.

10:SRI NOKSANGYUBA PONGEN
S/O. SRI BENDANGWATI AO

O/O. THE ASSISTANT CONTROLLER OF LEGAL METROLOGYAND
CONSUMER PROTECTION
MOKOKCHUNG-798601
NAGALAND.

11:SRI NGANYEI KONYAK
S/O. SRI THARA KONYAK

O/O. THE ASSISTANT CONTROLLER OF LEGAL METROLOGYAND
CONSUMER PROTECTION
DIST. MON-798621
NAGALAND

Advocate for the Petitioner : MR. P N GOSWAMI

Advocate for the Respondent : GA, NAGALAND

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 22/08/2023

Heard Mr. S. P. Sharma, learned counsel for the petitioner. Also heard Ms. T. Khro, learned Additional Advocate General, Nagaland and Mr. R. Dhar, learned counsel appears for the respondent Nos. 8 to 11.

2. This Interlocutory Application (Civil)/2216/2023 has been filed to bring on record the order dated 15th March 2022, whereby eight officials have been confirmed against the existing permanent posts. Name of the petitioner as an Inspector appears at serial number 1 and he is been shown to be confirmed in the post of Inspector with effect from 10.02.2022.

3. The writ petition WP(C)/7213/2021 was filed by a petitioner at a time when the petitioner was given officiating promotion to post of Inspector, Legal, Meteorology and Consumer Protection, Kohima, Nagaland. This position was sought to be revoked by the order impugned in the writ petition being order No. CLMCP/Esst-163/79 dated 16th December 2021, whereby the officiating promotion of the petitioner to the post of Inspector, Legal, Metrology and Consumer Protection Kohima, Nagaland was revoked as per the directive of the Government Letter number LM/CP-4/7/2018(Pt) dated 12.10.2021. By the said order he was retained as Assistant Inspector in the Office of Assistant Controller, Legal, Metrology and Consumer Protection. The recovery of pay and allowances enjoyed during the period the petitioner was holding officiating charge of the post of Inspector, which was considered to be the irregular period of service by the department, was sought to be recovered. Being aggrieved, the present writ

petition was filed praying for appropriate and adequate orders.

4. Notice in the matter was issued on 22.12.2021 and till the Returnable date the recovery sought to be made was stayed. The said interim order was extended from time to time. The respondents have filed their affidavits disputing the claims made by the petitioner.

5. Ms. T. Khro, learned Additional Advocate General, Nagaland appearing for the State submits that this order has been issued by the Department confirming the promotion to the Post of Inspector, Legal, Meteorology and Consumer Protection, Kohima, Nagaland of the petitioner and the date of confirmation is reflected in the order itself. Therefore, she submits that no further cause survives in the present writ petition and the writ petition should be closed.

6. Mr. R. Dhar, learned counsel appearing for the private respondents Nos. 8 to 11 also does not dispute the factual position in as much as the learned counsel submits that the apprehension of the private respondents were with regard to the seniority which could have been conferred to the petitioner by virtue of his holding charge of the post of Inspector, Legal, Meteorology and Consumer Protection, Kohima, Nagaland. However, since the present Order dated 15.03.2022 has been issued in favour of the petitioner and his date of confirmation is shown as 10.02.2022, they have no grievance in so far as the claim of seniority of the petitioner is concerned which is with effect from 10.02.2022 as per the order of confirmation. The respondent Nos. 8 to 11 were all appointed prior to the petitioner and are therefore senior to the petitioner.

7. In view of such submissions made by the counsels at the bar since in view of the order dated 15.03.2022, the petitioner has been permanently confirmed in the post of Inspector department of Legal, Meteorology and Consumer

Protection, Kohima, Nagaland and his date of effecting confirmation is shown as 10.02.2022, no further cause survives in the writ petition.

8. The recovery sought to be initiated of the pay and allowances enjoyed by the petitioner for the irregular period of service also does not survive in view of the confirmation Order dated 15.03.2022. In that view of the matter, the interim order which was granted earlier, stands confirmed and is made absolute.

9. The writ petition, therefore, stands closed in terms of the above order. The impugned order dated 16.12.2021 has lost its significance and therefore, cannot be enforced during the currency of the order dated 15.03.2022.

10. Writ petition is disposed of in terms of the above. And accordingly, Interlocutory Application filed is also disposed of in terms of the above.

JUDGE

Comparing Assistant