

GAHC010250092019



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

Case No. : WP(C)/7638/2019

REKAULANG PAME AND 7 ORS.

S/O- LATE KUISUANG PAME, R/O- VILL- BORO HAFLONG, P.O AND P.S-
HAFLONG, DIST- DIMA HASAO, ASSAM, PIN- 788819

2: SUJIT DAS

S/O- MOTILAL DAS
R/O- PWD MAGAZINE COLONY
P.O AND P.S- HAFLONG
DIST- DIMA HASAO
ASSAM
PIN- 788819

3: HAMPRON CH HOJAI

S/O- LATE G HOJAI
R/O- GUNJUNG
P.O GUNJUNG
P.S- HAFLONG
DIST- DIMA HASAO
ASSAM
PIN- 788819

4: PRONIL RAJIYUNG

S/O- U RAJIYUNG
R/O- VILL- N LAMPU
P.O AND P.S- MAIBANG
DIST- DIMA HASAO
ASSAM
PIN- 788831

5: KEBACHUNG JEME

S/O- SATUING JEME
R/O- VILL- LAISONG
P.O AND P.S
DIST- DIMA HASAO

ASSAM
PIN- 788819

6: DIGBIJOY DAULAGUPU
S/O- DURJENDRA DAULAGUPU
R/O- SURAT NAGAR
P.O AND P.S- HAFLONG
DIST- DIMA HASAO
ASSAM
PIN- 788819

7: NANJU SORONGPONG
S/O- LATE RAISON SORONGPONG
R/O- VILL- SURANGDISA
P.O DIHANGI
DIST- DIMA HASAO
ASSAM
PIN- 788819

8: KEDAKLUNG NEWME
S/O- LATE TAKDEUDING NEWME
R/O- L BAGAN
P.O AND P.S- MAHUR
DIST- DIMA HASAO
ASSAM
PIN- 78881

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HILLS AREA DEPTT, GUWAHATI- 6

2:NORTH CACHAR HILLS AUTONOMOUS COUNCIL
REP. BY ITS PRINCIPAL SECRETARY (N)
HAFLONG
DIST- DIMA HASAO
PIN- 788819

3:NORTH CACHAR HILLS AUTONOMOUS COUNCIL
REP. BY ITS PRINCIPAL SECRETARY (T)
HAFLONG
DIST- DIMA HASAO- 788819

4:THE DFO
DIMA HASAO DIVISION
HAFLONG
DIST- DIMA HASAO- 78881

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

20.11.2023

Heard Mr. B.D. Das, learned Senior Counsel assisted by Mr. H.R. Das, learned counsel for the petitioners. Also heard Mr. A. Chakraborty, learned Government Advocate, for the respondent no.1 and Mr. A. Khanikar, learned Standing Counsel, North Cachar Hills Autonomous Council, for the respondent nos. 2, 3 & 4.

The petitioners are before this Court praying for an order for regularization of their services which they have rendered under the NC Hills Autonomous Council working as the Forest Guards under the Divisional Forest Officer under the NC Hills Autonomous Council. The petitioners had applied for and were appointed against the vacant posts of Forest Guards. It is the grievance of the petitioner that although they had rendered their services till the year 2010, however, their dues were required to be paid in terms of their salaries and wages have not been released. The repeated representations made by the petitioners have not evoked any response from the respondent authorities. It is the submission of the learned Senior Counsel for the petitioners that there were similarly situated persons who were working under the NC

Hills Autonomous Council and consequent to agreements entered into by and between the council and these persons, those persons were regularized. Mr. Das, learned Senior Counsel has referred to the Minutes of the meeting held on 03.08.2016 in the Office of the Principal Secretary (N) of the NC Hills Autonomous Council, Halflong, along with the various officials and the similarly situated employees who were claiming regularization. In terms of said agreement, the Government decided to regularize their services and the said persons who are claiming regularization also agreed to forego their pending salaries with effect from July 2008 to December 2015. It is the submission of the learned Senior Counsel that pursuant to this agreement, these persons are now regularized and are continuously working. The petitioners have approached this Court alleging discriminatory treatment in the hands of the respondents on the ground that although other similarly situated persons have been regularized and are working but the petitioner's cases have not been considered for regularization. In fact, their dues, as required to be paid for the services rendered have also not been released for the reasons best known to the respondents.

Mr. A. Khanikar, learned Standing Counsel, NC Hills Autonomous Council, submits that in the affidavit-in-opposition filed by the respondent no.2, wherein it is stated that there are no records available in respect of any selection procedure adopted for appointment of these of the petitioners. So, these petitioners were illegal appointees, who never attended their duties. Therefore, the Executive Committee adopted a resolution held on 28.02.2011 for terminating the services of these illegally

appointed Foresters-I, Forest Guards etc. The respondents have also averred in their affidavit that no formal termination order was issued against those illegal appointees due to various unavoidable circumstances. The further submission of the learned Standing Counsel, NC Hills Autonomous Council is that the petitioners were not a part of the settlement which was executed by and between the persons whereby this services were regularized by the Council vide the agreement dated 03.08.2016. It is submitted that the present petitioners do not have any enforceable rights for claiming regularizations of their services.

Seeking a relief from this Court, Mr. Das, learned Senior Counsel for the petitioners, submits that in the rejoinder affidavit it has been clearly mentioned that the petitioners before the Court were given appointment by the respondent authorities and what procedure was adopted is not known to the petitioners and the records were entirely under their possession. Therefore, the claim that no records are available cannot be accepted. There is also no dispute that pursuant to orders passed by this Court and the settlement arrived at by and between the NC Hills and the other similarly situated persons by agreement dated 03.08.2016 those persons were regularized. Although the petitioners are similarly placed, their cases have not been considered in spite of assurances by the Council Officials. Mr. Das has also referred to communication dated 12.11.2009 issued by the Divisional Forest Officer, NC Hills Division, Halflong showing that in April, 2007, 195 candidates were appointed as Forester and 309 candidates were appointed as Forest Guards. In this connection,

various communications were issued for release of necessary finances for payment of their due salaries. Mr. Das has referred to the Communication dated 04.11.2010 where the total amount sought for was Rs.33,53,796/- (Rupees Thirty Three Lakhs Fifty Three Thousand Seven Hundred Ninety Six) only towards release of salary for the post of Forester-I (Regular) and Forest Guard (Regular) (fixed pay). In the said communication the names of the petitioners are reflected showing the amount payable against each of the petitioners and other similarly situated persons.

Having heard the learned counsel for the parties and upon a careful perusal of the pleadings on record, it is seen that there is no dispute that the petitioners had indeed worked under the respondent Department in view of the fact that their names are reflected in the communication dated 04.11.2010. The names of the petitioners along with their serial number in the list are given herein below:

Petitioner No.	Name	Serial No.
1	Rekaulang Pame	113
2.	Sujit Das	293
3.	Hampron Ch. Hojai	133
4.	Pronil Rajiyung	56
5.	Kebauchung Jeme	97
6.	Digbijoy Daulagupu	23
7.	Nanju Sorongpong	264
8.	Kedaklung Newme	195

Although there is a dispute as to whether the petitioners are still in service, the fact remains that the petitioners were employed and services were extracted out of

them as fixed pay employees. Therefore, the amount entitled to the petitioners by way of salary or fixed pay wages are required to be released for the period for which the services have been rendered by them. This is clearly reflected in the communication dated 04.11.2010.

Under such circumstances, the petition is closed with the direction to the respondent authorities, more particularly, the respondent no.3, Principal Secretary (T), North Cachar Hills Autonomous Council, Haflong, to examine the claims made by the writ petitioners for release of their salaries or fixed pay due for the services claimed to be rendered by the petitioners. The respondent no.3 will look into the individual claims of the petitioners and thereupon, pass appropriate orders and release the amount due to the petitioner, if the petitioners were found to be working during the periods claimed. If additional funds are necessary, the respondents will take necessary steps for requisition of additional funds for payment of the salaries. The claims of the petitioners will be looked into and speaking order in that respect be passed by the respondent no.3. The speaking orders passed shall be served individually on the petitioners. The entire exercise be completed within a period of 120 (one hundred and twenty) days from the date of receipt of a certified copy of this order.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant