



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

Case No. : WP(C)/167/2020

R. BUMBA YIMCHUNGER
WORK CHARGED KHALASI,
O/O THE EXECUTIVE ENGINEER, PHED, TUENSANG DIVISION, TUENSANG,
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 8 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND, KOHIMA
2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
NAGALAND
KOHIMA

3:THE FINANCE COMMISISONER
NAGALAND
KOHIMA

4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF NAGALAND
PUBLIC HEALTH ENGINEERING DEPARTMENT
NAGALAND
KOHIMA

5:THE ENGINEER-IN-CHIEF
PUBLIC HEALTH ENGINEERING DEPARTMENT
NAGALAND
KOHIMA

6:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
NAGALAND
KOHIMA

7:THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
TUENSANG
NAGALAND

8:THE TREASURY OFFICER
TUENSANG
NAGALAND

9:THE ACCOUNTANT GENERAL(A AND E)
NAGALAND
KOHIM

Advocate for the Petitioner : SUPONGWATI WALLING

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER**

28.11.2023

Heard Mr. S. Walling, learned counsel for the petitioner and Ms. N. Zhimomi, learned counsel for the State respondent.

2. In this petition, under Articles 226 of the Constitution of India, the petitioner namely, Shri R. Bumba Yimchunger has prayed for directing the State respondents for regularization of his service, in terms of the and Office Memorandum [OM] dated 17.03.2015, and pursuant to the order dated 17.09.2019, passed in W.P.[C] No. 146[K]/2019, and to extend the pay benefit and retirement benefit to him.

3. The background facts leading to filing of this petition is adumbrated herein below :-

“The petitioner was appointed on 04.04.1985, as Work-Charged Employee under the establishment of Executive

Engineer [PHED], Tuensang Division, Tuensang, Nagaland and he served in the department for more than 30 years without regularization. Thereafter, he filed one Writ Petition, being W.P.[C] No. 146/2019, before this Court and vide order dated 17.09.2019, the same was disposed of by directing the respondent No. 4, Chief Engineer [PHED] Kohima, Nagaland to consider the case of the petitioner in terms of OM dated 17.03.2015, within two weeks. But, while waiting for his regularization, vide office order dated 01.05.2020, he retired from his service on 31.04.2020, on completion of 31 years of service, without getting pensionary benefit and retirement benefit.”

Being aggrieved, the petitioner has approached this Court by filing the present petition with the prayer as aforesaid.

4. The State respondents have filed their affidavit-in-opposition, admitting that the petitioner had put more than 30 years in service and he is entitled to be regularized in terms of OM dated 17.03.2015, and the process for regularization has already been initiated.

5. Mr. Walling, learned counsel for the petitioner submits that the petitioner was appointed on 04.04.1985, as Work Charge Employee and after serving the department for more than 30 years, he retired from his service on 01.05.2020, without being regularized and without getting pensionary benefit and retirement benefit. Mr. Walling further submits that the petitioner had filed one writ petition, being W.P.[C] No. 146/2019, wherein this Court had directed the respondent No. 4, Chief Engineer [PHED] Kohima,

Nagaland to regularize the service of the petitioner, but, the said authority has failed to carry out the same and for which, the petitioner instituted one Contempt Petition against the respondent No. 4 and the said petition was disposed of by this Court, vide order dated 07.06.2023. Mr. Walling further submits that in terms of OM dated 17.03.2015, the petitioner is entitled to be regularized as he had put more than 30 years of service as Work Charge Employee. Referring, to the affidavit-in-opposition filed by the State respondents, Mr. Walling also submits that the respondent authority has submitted a list for regularization of Work Charge Employee, who have completed 30 years in service, and in the said list the name of the petitioner finds mention at Serial No. 10 and as the respondent authority has already initiated the process to regularize the Work Charge Employee, this writ petition may be disposed of, by directing the State respondents to complete the process of regularization within a stipulated period.

6. On the other hand, Ms. Zhimomi, learned counsel for the State respondents fairly submits that the petitioner has put more than 30 years of service as Work Charge Employee under the establishment of Executive Engineer [PHED], Tuensang Division, Tuensang, Nagaland and in terms of the OM dated 17.03.2015, and in view of the order of this Court in Writ Petition No. 146/2019, the petitioner is entitled to be regularized. Ms. Zhimomi further submits that the State has already started the process of his regularization and it may take some time to complete the entire process.

7. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the affidavit-

in-opposition.

8. Indisputably, the petitioner was appointed on 04.04.1985, as Work-Charged Employee under the establishment of Executive Engineer [PHED], Tuensang Division, Tuensang, Nagaland and he had put more than 30 years service as Work Charge Employee. It is also not in dispute that while waiting for his regularization, vide office order dated 01.05.2020, he retired from his service on 31.04.2020, on completion of 31 years of service, without getting pensionary benefit and retirement benefit. Further, it appears that he is entitled to be regularized, in terms of the OM dated 17.03.2015, and Writ Petition No. 146/2019. It also appears that the State has already started the process for regularization of the service of the petitioner.

9. In view of above and also as agreed by learned counsel for both the parties, this Court is inclined to dispose of this writ petition, by directing the State respondents to complete the entire process of regularization of service of the petitioner within a period of 4 [four] months from today.

10. In terms of above, this writ petition stands disposed of. The petitioner shall obtain a certified copy of this order and place the same before the respondent authorities, within a period of 2 [two] weeks. The parties have to bear their own costs.

Sd/-

JUDGE

Comparing Assistant