

GAHC020004902022



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

Case No. : WP(C)/174/2022

SMTI. ADAPRO
DAUGHTER OF SHRI. KIYATO SANGTAM,, W/C LABOUR, O/O EXECUTIVE
ENGINEER, PWD (R AND B), KIPHIRE DIVISION, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND, NAGALAND
KOHIMA 2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
NAGALAND

3:THE ENGINEER-IN-CHIEF

4:THE CHIEF ENGINEER

5:THE EXECUTIVE ENGINEE

Advocate for the Petitioner : SENTIYANGER

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 01-05-2023

Heard Ms. V. Anne Therie, learned counsel for the petitioner.
Also heard Mr. Moa Imchen, learned Senior Government Advocate,

appearing on behalf of all the respondents.

The petitioner who was appointed as W/C Skilled Labour in the fixed pay of Rs. 750/- p.m. in the Department of Public Works, Government of Nagaland, vide order, dated 05.08.1996, under Memo. No. KPE/EE/EST-24/694-99, issued by the Executive Engineer(PWD), Khipire Division, Khipire, and stating to be still working as W/C Skilled Labour in the Department and drawing a fixed pay of Rs. 5280/- p.m., now, has filed this writ petition, for a direction to the respondent authorities to grant the petitioner, the scale of pay of W/C Skilled Labour, contending that the respondent authorities have, by now, granted the scale of pay to as many as 706 employees who were appointed either on casual, adhoc, W/C or contingency basis.

The names of 706 such employees who have been granted the scale of pay, has been annexed as Annexure 4B to the petition, which is an information furnished under the RTI Act, to Shri Chuba Imchen, an Advocate for the petitioner by the Deputy Chief Engineer & PIO, Office of the Engineer-in-Chief, NPWD, Nagaland, Kohima vide letter, dated 12.07.2022.

In support of his contention, the petitioner has relied on a decision of the Hon'ble Supreme Court rendered in the case of **State of Punjab v. Jagjit Singh**, reported in **(2017) 1 SCC 148** and a judgment & order of the Division Bench of this Court, dated 20.01.2023, passed in WA 25/2022.

The respondents No. 1 to 5 have contested the case by filing a

counter affidavit wherein, in paragraph No. 5 thereof, it has been stated as under:

“5. That the statements made in paragraphs 6 of the writ petition is denied. It is respectfully submitted that there is no State Government Policy/Scheme to grant minimum scale of pay to work-charge employees appointed on fixed pay. On the other hand, there are thousands of work-charge fixed pay employees in the department whose cases are similarly situated to that of the petitioner and as such considering the case of the petitioner will open floodgate of litigation or set a precedence which will create more problem than solving the issued. Further, in the absence of any specific scheme/policy adopted by government for upgradation of fixed pay to scale of pay to work-charge employees the department is not in a position to consider the case of the petitioner. Furthermore, the petitioner knowing very well the nature of her appointment and had accepted the appointment Order and its responsibility. Therefore, simply because she had served the department for more than 25 years does not give her the right to claim scale of pay.”

Though the State respondents in the counter affidavit filed, have contended that there is no policy/scheme of the State Government to grant minimum of scale of pay to the W/C employees, yet, it has not been denied that the petitioner has been working as W/C Skilled Labour w.e.f. 05.08.1996 and as many as 706 casual, adhoc, W/C or contingency employees have been granted the scale of pay since the year 2000 in the Department concerned.

Since the State respondents have admitted granting scale of pay to as many as 706 casual, adhoc, W/C or contingency employees of the Department of Public Works since the year 2000 despite there being any policy/scheme of the Government for grant of scale of pay; I find no reason as to why the petitioner who is a W/C Skilled Labour on a fixed pay w.e.f. 05.08.1996, should also not be granted the scale of pay of W/C Skilled Labour as have been

granted to the 706 casual, adhoc, W/C or contingency employees, as noted hereinabove.

Accordingly, this writ petition is hereby disposed of by directing the respondent authorities to grant the petitioner, the scale of pay of W/C Skilled Labour as have been granted to the 706 casual, adhoc, W/C or contingency employees, since the year 2000 as informed to Shri Chuba Imchen, the Advocate of the petitioner by the Deputy Chief Engineer & PIO, Office of the Engineer-in-Chief, NPWD, Nagaland, Kohima vide letter, dated 12.07.2022.

The process for grant of scale of pay of W/C Skilled Labour to the petitioner as directed hereinabove, shall be completed by the respondent authorities as expeditiously as possible and in any case, not later than 3(three) months from the date of receipt of a certified copy of this order.

The writ petition stands disposed of in terms above.

Sd/-

JUDGE

Comparing Assistant