GAHC020007502022

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

Case No. : WA/39/2022

THE STATE OF NAGALAND AND 5 ORS REPRESENTED THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND

2: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF NAGALAND P AND AR DEPARTMENT NAGALAND KOHIMA

3: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF NAGALAND WORKS AND HOUSING DEPARTMENT NAGALAND KOHIMA

4: THE ENGINEER-IN-CHIEF PWD NAGALAND KOHIMA

5: THE CHIEF ENGINEER PWD (R AND B) NAGALAND KOHIMA

6: THE EXECUTIVE ENGINEER PWD (R AND B) KIPHIRE DIVISION

VERSUS

SHRI. ATSAMONG CODE NO. KPE. 164, W/C LABOUR(FIXED) PWD (R AND B), KIPHIRE DIVISION, KIPHIRE NAGALAND

Advocate for the Petitioner : GOVT ADV NL

Advocate for the Respondent : SUPONGWATI WALLING

Linked Case : I.A.(Civil)/216/2022

THE STATE OF NAGALAND AND 5 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND

VERSUS

SHRI. ATSAMONG
CODE NO. KPE. 164
W/C LABOUR(FIXED) PWD (R AND B)
KIPHIRE DIVISION
KIPHIRE NAGALAND

Advocate for : GOVT ADV NL
Advocate for : appearing for SHRI. ATSAMONG

BEFORE
HON'BLE MR. JUSTICE NANI TAGIA
HON'BLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 03.05.2023
(Nani Tagia, J)

Heard Ms. V. Suokhrie, learned Additional Advocate General for the appellants/applicants and Mr. Supongwati Walling, learned counsel for the sole respondent.

2. This intra Court appeal is directed against the judgment dated 10.08.2022, passed in WP(C)No. 345/2021, whereby, the State respondents have been directed to consider granting minimum scale of pay to the petitioner in the same line with that of the petitioners of WP(C)79(K)/2018; WP(C)165(K)/2018;

WP(C)166(K)/2018; WP(C)167(K)/2018; WP(C)168(K)/2018 and Office orders dated 03.10.2018 and 23.01.2020, passed by the Engineer-In-Chief, Nagaland, Kohima. Such consideration was directed to be made within a period of 3 (three) months from the date of receipt of the certified copy of the order.

3. The respondent herein, who was appointed as Work Charge Labour in the Office of the Executive Engineer (PWD) Kiphire Division, Kiphire, by an Office order dated 17th Feb' 1994, issued by the Executive Engineer (PWD) Kiphire Division, Kiphire, vide No. KPE/PW/EST-20/30-05, on a fixed pay of Rs. 450/- per month, had filed a writ petition being WP(C)/345/(K)2021 for grant of minimum scale of pay to the petitioner on the basis of a judgment rendered by the Hon'ble Supreme Court in the ***State of Punjab & Ors. Vs Jagjit Singh & Ors.***, reported in ***(2017) 1 SCC 148***.

4. On the contention raised by the petitioner and upon hearing the learned counsels appearing for the petitioner as well as the State respondents, WP(C)No. 345/2021 was disposed of by a judgment, dated 10.08.2022, whereby the respondent authorities were directed to consider granting minimum scale of pay to the petitioner.

5. Though this appeal has been preferred challenging the judgment dated 10.08.2022, passed in WP(C)No.

345/2021, directing the respondent authorities to pay a minimum scale of pay to the petitioner, contending that the respondent herein, who was the petitioner in WP(C)No. 345/2021, had not contended that he was discharging the similar nature of work as that of a regular Work Charge Labour, Ms. Suokhrie, learned Additional Advocate General, however, by referring to a recent judgment and order of this Court, dated 20.01.2023, passed in WA No. 25/2022, has fairly submitted that such a contention raised by the State, insofar as payment of minimum scale of pay is concerned, have been rejected in the aforesaid WA No. 25/2022. Ms. Suokhrie, learned Additional Advocate General, therefore, submits that the present appeal may also be disposed of in the line of the judgment and order, dated 20.01.2023, passed in WA No. 25/2022.

6. On perusal of the order dated 20.01.2023, passed in WA No. 25/2022, it is noticed that the Division Bench of this Court, while dismissing the appeal filed by the State, had directed the State authorities to grant minimum scale of pay to a contingency sweeper working on a fixed pay, on the basis of the principle of equal pay for equal work.

7. In view of the above, we are of the view that the contention raised in the instant writ appeal have been dealt with by the Division Bench of this Court in the WA No. 25/2022, by a decision rendered on 20.01.2023.

Accordingly, we find no merit in the contention raised by the State in the instant appeal and the appeal filed by the State accordingly, stands dismissed.

8. Consequently, upon dismissal of the present writ appeal, we direct the respondent authorities to pay the respondent a minimum scale of pay of Work Charge Labour, as expeditiously as possible and in any case not later than 3 (three) months from the date of receipt of the certified copy of this order.

9. WA No. 39 of 2022 and I. A. (Civil) No. 216/2022 are disposed of, with the above direction.

JUDGE **JUDGE**

Comparing Assistant