

GAHC020008162022



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

Case No. : WP(C)/338/2022

ALL NAGALAND PWD FIELD WORKERS ASSOCIATION(ANPWDFWA)
AND 2 ORS
REPRESENTED BY THE PRESIDENT, SHRI. K. ATOVI AWOMI,
HEADQUARTER - KOHIMA, NAGALAND,
REGD. NO.ED/GSS/RS/2/2033/91-92(PT), DATED 24-03-1993,
MB - 8414881722

2) ALL NAGALAND PWD FIELD WORKERS ASSOCIATION(ANPWDFWA),
REPRESENTED BY THE GENERAL SECRETARY, SHRI. ZUBEMO NGULLIE,
HEADQUARTER - KOHIMA, NAGALAND,
REGD. NO. ED/GSS/RS/2/2033/91-92(PT), DATED 24-03-1993,
MB – 7628812960

3) ALL NAGALAND PWD FIELD WORKERS ASSOCIATION(ANPWDFWA),
REPRESENTED BY THE JOINT SECRETARY SHRI. YANGTAN CHANG,
HEADQUARTER - KOHIMA, NAGALAND,
REGD.NO.ED/GSS/RS/2/2033/91-92(PT), DATED 24-03-1993,
MB - 9856037745

VERSUS

THE STATE OF NAGALAND AND 7 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND,
KOHIMA

2) THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND,
P AND AR DEPARTMENT, NAGALAND, KOHIMA

3) THE FINANCE COMMISSIONER TO THE GOVERNMENT OF NAGALAND,
NAGALAND, KOHIMA

4) THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND,
WORKS AND HOUSING DEPARTMENT, NAGALAND, KOHIMA

5) THE ENGINEER-IN-CHIEF,
NPWD, KOHIMA, NAGALAND

6) THE CHIEF ENGINEER,
PWD(H), NAGALAND, KOHIMA

7) THE CHIEF ENGINEER,
PWD(R AND B), NAGALAND, KOHIMA

8) THE CHIEF ENGINEER,
PWD(NH), NAGALAND, KOHIMA

Advocate for the Petitioner : SUPONGWATI WALLING

Advocate for the Respondent : GOVT ADV NL

BEFORE
HON'BLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 10-08-2023

Heard Mr. Supongwati Walling, learned counsel for the petitioners and Mr. Moa Imchen, learned Senior Government Advocate for the State respondents.

Heard the learned counsel for the petitioner who submits that the gist of the case is this:

That on account of the Office Memorandum No. AR-3/GEN-201/2009, dated 17-03-2015 issued by the Government of Nagaland, Personnel & Administrative Reforms Department (Administrative Reforms Branch), the salaries of the members of the Petition's Association (Work-Charged employees – both scale and fixed) were re-fixed w.e.f. 01-01-2015. However, the less drawn pay

arrears (i.e. salaries after re-fixation) were not paid/ granted to them for a period of two months w.e.f. 01-01-2015 to 28-02-2015. It is stated that the Non-Drawal Certificates were also issued by the Concerned Treasury Officers to the Executive Engineers of respective divisions and the Executive Engineer(s) had duly forwarded and submitted to the Chief Engineer(s) of all divisions enclosing the lists of the writ petition). However, till date the payment has not been done by the respondents authority. It is to be noted the employees from Mechanical Divisions have already been paid since 2017. The petitioner(s) submitted Legal Notice dated 14-11-2022 to the Engineer-In-Chief, NPWD, Kohima, Nagaland for granting the less drawn pay arrears to the members of the petitioner's Association.

It is stated that the Government/State respondents has admitted the liability claimed by the petitioner's Association in their Affidavit-in-Opposition of Respondents 1-8 at paragraphs 4 & 6, which clearly states that the members of the petitioner's Association are entitled to the less drawn pay arrears for the period of two months i.e. 01-01-2015 to 28-02-2015 and further prays for granting certain period of time.

The learned counsel further submits that the petitioners have been waiting for 8 (eight) years for the payment of less-drawn salaries and has prayed that the writ petition may be disposed of with a direction to the respondents to complete the payment/granting of less-drawn pay arrears.

Mr. Moa Imchen, learned senior Government Advocate submits

that though it is not denied that the petitioners are entitled to be paid their less-drawn pay arrears for the period of 2 (two) months, *i.e.* 01.01.2015 to 28.02.2015, certain period of time may be granted since certain procedures are required to be followed by the State respondents for payment and release of the less-drawn salaries which would amount to a huge amount. He submits that the State respondents are also having certain financial burdens which may also be taken into consideration.

Having heard the submissions made by both the parties this Court finds that it is not a disputed fact that the salaries of the members of the Petitioner's Association (Work-Charged Employees – both scale and fixed) were re-fixed w.e.f. 01.01.2015 and that the petitioners were to be paid their less-drawn salaries for a period of 2 (two) months w.e.f. 01.01.2015 to 28.02.2015. The only submission made by the learned counsel for the State respondents is that the State respondents have financial burdens and that certain period of time may be granted for the payment and release of the less-drawn pay arrears to the entitled petitioners.

In view of the above submissions made by the learned counsels for both the parties, this Court finds it fit to dispose the instant writ petition, taking into consideration the fact that the petitioners have been made to wait for their less-drawn pay arrears for about 8 (eight) years when the said is legally due to them, with a direction to the State Respondents to complete the payment/granting of less drawn salaries to the members of the Petitioner's Association for the period of two months w.e.f. 01.01.2015 to 28.02.2015 within a period of 4 (four) months from the date of receiving a certified copy

of this order. Accordingly, WP(C)/338/2022 stands allowed and disposed.

Sd/-
JUDGE

Comparing Assistant