



<u>Serial No.20 & 21</u> <u>Regular List</u>

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 367 of 2023

Date of Decision : 22.10.2024

Smti. Ridaphi Nongsiej

...Petitioner

-Versus-

1. State of Meghalaya,
Represented by the Chief Secretary,
Government of Meghalaya,
Shillong.
2. Chief Engineer P.W.D. (Roads),
Shillong, Meghalaya.
3. Executive Engineer P.W.D. (Roads),
Central Division, Shillong.

...Respondents

AND

WP(C). No. 85 of 2024

1. Smti. Tabellyne Diengdoh
2. Smti. Shimtilang Nongsiej
3. Smti. Rebecca Mawthoh
4. Smti. Cistina Muksiar
5. Shri. Juliana Thabah
6. Shri. Loganstone Kurbah
7. Smti. Belniki Majaw
8. Shri. Hercules Sawian



9. Shri. Pynshngain Lyngdoh Nongbri
10. Shri. Bishnu Joshi
11. Shri. Elbisstone Kharbudnah
12. Shri. Lamphrang Jyrwa
13. Shri. Lumlang Myllem Umlong

...Petitioners

-Versus-

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...Respondents

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. R.S.Malngiang, Adv.

For the Respondent(s) : Mr. N.Syngkon, GA
Mr. J.N.Rynjah, GA

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|-----|--|--------|
| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: _ | Yes/No |
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JUDGMENT AND ORDER (ORAL)



1. These two instant writ petitions being similar are being disposed of by this common judgment. The prayers in both the writ petitions are for directions to accommodate the petitioners who are working as Regular Casual Workers under the RCW Scheme in Group D posts, subject to vacancies as per the RCW Scheme, 1996.

2. Mr. R.S.Malngiang, learned counsel for the petitioner in this context has drawn the attention of the Court to the Scheme, wherein at para 5 (1) and (2), it has been provided that when vacancies in Group D posts arise in any Departments or offices, fifty percent thereof shall, subject to rules, orders and instructions as State Government may from time to time issue, be filled up from amongst the RCWs working in that Department. He submits that the Office Memorandum which contains the said direction has not been implemented by the State respondents resulting in deprivation of Group D appointment to the petitioners. He therefore, prays that in the event that Group D posts are available, fifty percent thereof should be considered for appointment from amongst the RCW staff.

3. Mr. N.Syngkon, learned GA on behalf of the State respondents in reply thereto, has submitted that it is not a case of deprivation or that the State respondents are not adhering to the RCW Scheme, but the only fact is that in the Department where the petitioners are serving, there are only ten Group D posts of which presently only one is vacant. As such, he submits



that there is no question the petitioners can be accommodated as per the vacancies available. In support of his contention, learned GA has referred to Anneuxre-2 of the affidavit-in-opposition which supports this submission.

4. I have heard learned counsel for the parties.

5. Firstly, for the sake of convenience, the provision as provided in the RCW Scheme, 1996, at paragraph 5 (1) and (2) are reproduced herein below:

“5. Appointment to Group D posts: (1) When vacancies in Group D posts arise in any Department or offices, fifty percent thereof shall, subject to rules, orders and instructions as State Government may from time to time issue, be filled up from amongst the RCWs working in that Department or office as case may be and possessing the required qualifications. The maximum age limit in such a case shall be relaxed by the total number of years served continuously as a Casual Worker and as an RCW. Subject to suitability criteria, the vacancies amongst the RCW shall be filled up in the order of their total length of such continuous service.

(2) When an RCW is appointed to a Group D post half of the service rendered as an RCW will be added to the length of service rendered in the Group D post for the purpose of retirement benefits. Further, the earned leave referred to in paragraph 4 (1) of this scheme which may be remaining at his credit on the date of such appointment will be carried over and added to the leave he may subsequently earn in the Group D post.”

6. A perusal of the above noted provision shows that as submitted by the learned counsel for the petitioner, fifty percent Group D vacancies



arising out of a particular Department are to be considered for appointment from amongst the RCWs working in that Department. However, on a perusal of the materials on record which shows that only one vacant post exist of Chowkidar, inasmuch as, in the earlier vacant post, RCWs have been accommodated, as such, no direction can issue for the prayers of the petitioners to be answered presently.

7. Accordingly, in view of the facts and circumstances of the case, no relief will be available to the writ petitioners at this stage and the writ petition is accordingly disposed of.

Judge