

Serial No. 01-11
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 91 of 2023 with
WP(C) No. 92 of 2023
WP(C) No. 93 of 2023
WP(C) No. 94 of 2023
WP(C) No. 95 of 2023
WP(C) No. 96 of 2023
WP(C) No. 97 of 2023
WP(C) No. 98 of 2023
WP(C) No. 99 of 2023
WP(C) No. 100 of 2023
WP(C) No. 101 of 2023

Date of Decision: 28.05.2024

Smti. Tamsin T. Sangma
W/o Shri. Linku Gare Momin
R/o Upper Wadanang
P.O & P.S Chandmari,
West Garo Hills, Meghalaya-794001

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Dolly A. Sangma
W/o Shri. Balsrang R. Marak
R/o of Kolmesalgre, P.O. &
P.S. Williamnagar
East Garo Hills, Meghalaya-794111

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Flora Tese K. Marak
W/o Shri. Sengkam W. Momin
R/o Pat's Cottage, Matchakolgre,
Tura, West Garo Hills-794101,
Meghalaya

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Euriva R. Marak
W/o Shri. Ezekiel K. Marak
R/o Northern Hawakhana,

Tura, West Garo Hills,
Meghalaya-794104

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Arpana Hajong
W/o Biplabjit Hajong
R/o Kathalbaripara Village
P.O. Nogorpara, South West Garo
Hills, Meghalaya – 794106

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Sunita Hajong
W/o Shri. Sukanto Hajong
R/o Proper Hawakhana,
Tura, West Garo Hills, Meghalaya-794001

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Hasina Khatun
W/o Shri. Sardar Harun Roshid
R/o Rajabala, West Garo Hills,
Meghalaya

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Tiasha M. Sangma
W/o Shri. Madan Lal Sinha
R/o Ampati, South West
Garo Hills, Meghalaya

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Janisha Ch. Marak
W/o Shri. Lonin M. Sangma
R/o New Daramgre,
P.O. Mibonpara, South Garo
Hills, Meghalaya-794005

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Santona Banai Koch
W/o Shri. Hitendra Koch
R/o Ampati, South West Garo
Hills, Meghalaya

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Smti. Sonabal B. Sangma
W/o Shri. Emerold Ch. Marak
R/o Dolagia Village,
P.O. & P.S Mahendraganj,
South West Garo Hills, Meghalaya

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by its Commissioner and Secretary,
Social Welfare Department, Shillong

2.The Director of Social Welfare,
Shillong, Meghalaya

3.The Joint Director of Social Welfare,
Shillong, Meghalaya

:::Respondents

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. A.S. Siddiqui, Sr. Adv. with
Ms. A. Kharmyndai, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Ms. Z.E. Nongkynrih, GA
Ms. S. Bhattacharjee, GA
Ms. I. Lyngwa, GA.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER

1. These bunch of writ petitions, which are detailed herein below, being similar in facts and circumstances are being disposed of by this common judgment and order.

SL No	Writ Petition	Name of the Petitioners	Place of Posting	Date of Appointment
1	WP(C) No.91/2023	Smti. Tamsin T. Sangma	Office of the Child Development Project Officer, ICDS Project Selsella, West Garo Hills	23/02/2010
2	WP(C) No.92/2023	Smti. Dolly A. Sangma	Office of the Child Development Project Officer, ICDS Project Selsella, West Garo Hills	23/02/2010
3	WP(C) No.93/2023	Smti. Flora Tese K. Marak	Office of the Child Development Project Officer, ICDS Project Gambegre, West Garo Hills.	23/02/2010
4	WP(C) No.94/2023	Smti. Euriva R. Marak	Office of the Child Development Project Officer, ICDS Project Selsella, West Garo Hills.	23/02/2010
5	WP(C) No.95/2023	Smti. Arpana Hajong	Office of the Child Development Project Officer, ICDS Project Tikrikilla, West Garo Hills.	23/02/2010
6	WP(C) No.96/2023	Smti. Sunita Hajong	Office of the Child Development Project Officer, ICDS Project Zikzak, West Garo Hills	23/02/2010
7	WP(C) No.97/2023	Smti. Hasina Khatun	Office of the Child Development Project Officer, ICDS Project Ranikor, West Khasi Hills	23/02/2010

8	WP(C) No.98/2023	Smti. Tiasha M. Sangma	Office of the Child Development Project Officer, ICDS Project Zikzak	23/02/2010
9	WP(C) No.99/2023	Smti. Janisha Ch. Marak	Office of the Child Development Project Officer, ICDS Project Tikrikilla	23/02/2010
10	WP(C) No.100/2023	Smti. Santona Banai Koch	Office of the Child Development Project Officer, ICDS Project Zikzak, West Garo Hills	23/02/2010
11	WP(C) No.101/2023	Smti. Sonabal B. Sangma	Office of the Child Development Project Officer, ICDS Project Zikzak, West Garo Hills	03/06/2008

2. The above noted writ petitioners pursuant to an advertisement dated 12.11.2009, inviting eligible candidates for a walk in interview for appointment, to the post of Lady Supervisors as a special drive for Garo Hills Division under ICDS Projects on temporary basis, on the condition that their appointment in a regular manner was contingent upon selection by the Meghalaya Public Service Commission (MPSC)/District Selection Committee, had appeared for the same and on being successful were given temporary appointment. Their appointments thereafter, as Lady Supervisors under the Integrated Child Development Services (ICDS), under Regulation 3(f) of the Meghalaya Public Service Commission (Limitation of Function) Regulation, was then duly approved by the Cabinet on 15.01.2010.

3. The petitioners thereafter, were posted to their respective place of postings, after being given appointment vide order dated 23.02.2010, for a period of 1(one) year, and were also sent for job training course for Lady Supervisor, and after completion of the same, started discharging their duties. The respondent No. 2, by letter dated 18.01.2011, then wrote to the Chairman of the District Selection Committee, East Garo Hills and West Garo Hills for issuance of advertisement and to conduct interview for the post of Lady Supervisor, but however, as the same was not forthcoming by office order dated 15.07.2011, the services of the petitioners and other similarly situated employees were extended for another period of 1(one) year. However, out of all the candidates who were appointed on 22.02.2010, 3(three) candidates were called for personal interview by the District Selection Committee, South Garo Hills on 24.01.2011, without there being an advertisement, but on being found suitable were recommended and thereafter given appointment by the respondent No. 2, on a regular basis.

4. Thereafter, as the respective DSC's, did not take action for appointment of candidates on regular basis, the respondent No. 2, vide various office orders, extended the services of the petitioners. The respondent No. 2, then vide letter dated 28.11.2013, requested the Chairman of West, East, South and North Garo Hills, District Selection

Committee to take necessary action for recommendation of candidates for regular appointment, but however, as there was no response, the services of the writ petitioners were further extended for a period of 89(eighty-nine) days. Finally, after 5(five) years of service had been completed, the District Selection Committee for the post in West and South West Garo Hills, on 25.06.2015 and 09.11.2015, published advertisements for the said post. The respondent No. 2, then instructed the writ petitioners who were temporarily appointed to apply for the post to the DSC, and to obtain the NOC/experience certificate from the department. All of the petitioners, falling within these two districts submitted their applications and were waiting for response from the DSC, which however, did not proceed with the selection process. The respondent No. 2, by letter dated 31.07.2015, then requested the Commissioner Secretary, Social Welfare Department to regularize the services of the petitioners, as they have put in a long period of continuous service, which was satisfactory and also had undergone various in-service trainings. However, this request was denied on the ground that, the petitioners should qualify themselves through an examination.

5. The respondent No. 2, then again by another letter dated 29.10.2015, urged the respondent No. 1, to reconsider the decision and to regularize the writ petitioners who had rendered long years of service. The writ

petitioners themselves, also addressed a representation, praying for regularization, which however received no response. The respondent No. 2 then by letter dated 21.03.2017, again requested the DSC's of all the districts to advertise for filling up the post of Lady Supervisors. But however, by letter dated 18.08.2017, the respondent No. 3 (Joint Director of Social Welfare), requested the Chairman of West Garo Hills and South West Garo Hills to keep the selection in abeyance. Meanwhile, the respondent No. 3, by letter dated 22.05.2018, communicated that the matter of regularization of the adhoc supervisors, had been taken up, but as they had rendered only 7(seven) years of service, were considered not eligible for regularization.

6. This see-saw battle continued with the request being made again by the respondent No. 2 to the respondent No. 1, vide letter dated 01.06.2020, for regularization of the petitioners, which was followed by another letter dated 09.07.2020, requesting the Chairman, DSC, West Garo Hills and South West Garo Hills to advertise the said posts. However, this also was kept on abeyance on the request of the respondent No. 2, on the ground that the consideration for regularization was being processed. The writ petitioners then by a representation dated 27.04.2022, again prayed for regularization, as by this time they had already rendered service of over 12(twelve) years. It is then seen that, by another communication dated

14.02.2023, the State respondents informed the respondent No. 2, that the Lady Supervisors whose appointment was under 3(f), were to be made regular only after recommendation of the MPSC/DSC, as the case may be.

7. Though subsequent extensions was granted to the writ petitioners, this situation which had reached a stale mate, without the selection being held and the writ petitioners continuing in temporary employment, has prompted them to approach this Court, by these petitions.

8. Mr. A.S. Siddiqui, learned Senior counsel assisted by Ms. A. Kharmyndai, learned counsel for the petitioners has submitted that inspite of their long years in service, the writ petitioners have been treated shoddily by the respondents, who neither regularized their services nor held any selection to facilitate the same. He submits that the respondents are therefore, liable to be directed to engage in a one-time exercise, to allow the writ petitioners to qualify through a special selection process, so that on being qualified, their services would be regularized.

9. Mr. N.D. Chullai, learned AAG for the State respondents has submitted that the appointment of the petitioners was clearly under Regulation 3(f) which does not vest them any right for regularization. However, he has very fairly submitted that, the Government in adhoc appointments made before 31.12.2007, had embarked upon an exercise on the decision of the cabinet, to regularize the adhoc appointees on certain

conditions, where one of them was, that regularization was subject to the adhoc employees undergoing a special examination/interview conducted specifically for that purpose by the MPSC/DSC concerned.

10. Having heard the learned counsel for the parties, and also as per the materials on record, the fact that the writ petitioners have been serving for a long period of over 14(fourteen) years presently as on date, is undisputed. Another fact that cannot be ignored is that the respondent No. 2, in recognition of the service and experience of the writ petitioners had requested the respondent No. 1 to consider regularization on several occasions, and on the same not having been acceded to, had also requested that a selection be done, which also did not bear any fruit. The result therefore, is that the petitioners through no fault of theirs, have been deprived of participating in a selection process to ensure their permanency in the posts against which they have been serving, these so many years. As referred by the learned AAG, the State Government in the Personnel and Administrative Reforms Department vide order dated 23.06.2022, in the matter of regularization of adhoc appointments made on or before 31.12.2007, had made the same subject to the following conditions, which are reproduced herein below.

(i) Against sanctioned posts only

- (ii) *For only adhoc appointments made on or before 31st December, 2007.*
- (iii) *Subject to Rules and Regulations.*
- (iv) *Applies prospectively from the date of issue of order and after the adhoc employees has undergone the special examination/interview conducted specifically for this purpose by the Meghalaya Public Service Commission or the District Selection Committee/Departmental Selection Committee concerned.*

11. The writ petitioners as they put in long years of service and gained considerable experience therefore, have a genuine and legitimate expectation to be regularized against the posts they are serving in, or they at least be given a chance or a way to secure the same, which as observed above has not been afforded to them. As such, taking the policy decision of the State respondents, especially Clause – (iv) quoted above, as a benchmark for consideration of regularization of adhoc appointees, and as the terms of appointment of the writ petitioners also being contingent that they qualify in a regular manner, in a selection by the MPSC/DSC, in the considered view of this Court, the State respondents are liable to be directed to conduct a special interview or examination, to enable the writ petitioners to be considered for regularization thereafter.

12. It is therefore ordered accordingly.

13. This direction is being issued keeping in mind the circumstances surrounding the case of the writ petitioners and this order shall not serve as a precedent. It is also further provided that the exercise is to be completed as expeditiously as possible.

14. These writ petitions accordingly are allowed to the extent indicated above, and are disposed of.

Judge

Meghalaya
28.05..2024
"D.Thabab-PS"