



Serial No.22
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 209 of 2023

Date of Decision :11.06.2024

Shri. Mawsiang Baskhem Dhar,
S/o (L) Shri. Hillsting Biam,
R/o Ladthadlaboh, West Jaintia Hills District,
Jowai – 793150, Meghalaya.

...Petitioner

-Versus-

1. State of Meghalaya through the Chief Secretary to the Government of Meghalaya, Shillong.
2. The Secretary to the Government of Meghalaya, Education Department, Shillong.
3. The Under Secretary to the Government of Meghalaya, Personnel & A.R.(B) Department.
4. Directorate of Educational, Research and Training (DERT), Meghalaya, Shillong.
5. The Principal, District Institute of Educational & Training (DIET), West Jaintia Hills, Thadlaskein.

...Respondents

6. District School Education Office (DSEO), Jaintia Hills District.

...Proforma Respondent



Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv.
Mr. E.Lalsangluaia, Adv.

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

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

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

JUDGMENT AND ORDER (ORAL)

1. The petitioner is before this Court with a prayer for regularization of his appointment to the post of Peon, wherein he had been serving since being appointed on 21-08-2000 by a Departmental Selection Committee.

2. The brief background facts are that, as indicated in the order of appointment dated 21-08-2000, appointment to various posts, including the petitioner on regular scales was made against a Government letter No. EDN.112/95/32, dated 27th August, 1996, by which the said posts had been created. It is the further case of the writ petitioner that inspite of several



letters by the respondent No. 5 addressed to respondent No. 4 over the years for regularization of the petitioner in his post, the same was not met with any positive response, which has prompted the writ petitioner to come before this Court by way of the instant writ application.

3. Mr. Philemon Nongbri, learned counsel for the petitioner has drawn the attention of this Court to a letter dated 07-02-2023, annexed at (Annexure - 9 series), wherein the requests for regularization on behalf of the writ petitioner were reiterated, as well as to a chart appended to the said letter, wherein the name of the writ petitioner appears at No. 2, showing his appointment to be against the post that had been created by the letter dated 27th August, 1996. It is further submitted that the said posts, from the affidavit of the respondents are seen to have been retained by the respondents on the sanction and approval of the concerned department being received. He therefore submits that the petitioner having been regularly selected in the selection process, and having served against the said post against a regular vacancy which has since been retained, there is no impediment for the respondents to consider his case for regularization expeditiously.

4. Mr. N.D.Chullai, learned AAG assisted by Ms. Z.E.Nongkynrih, learned GA on behalf of the respondents submits that the appointment of the writ petitioner in a Grade-IV posts should necessarily have been



through the District Selection Committee, whereas in the case of the petitioner, the same was done through a Departmental Selection Committee. He submits that from the mode of appointment, no right is vested with the writ petitioner to claim for regularization. He however, does not dispute the fact that certain posts have been retained in the concerned department and place of posting, where the writ petitioner is serving.

5. I have heard learned counsel for the parties.

6. Firstly, it is seen that as per the order of appointment dated 21-08-2000, it is clearly shown that the writ petitioner along with other appointees have been appointed against the posts created by the Government letter No. EDN.112/95/32, dated 27th August, 1996, wherein he has continued in service without a break till date. Further, it is also seen that the respondent No. 5 under whom the writ petitioner is serving, has repeatedly made requests to the respondent No. 4 for consideration of regularization of the writ petitioner against the permanent vacancy which he has been serving. Further, as submitted and not disputed by the learned AAG, the State respondents by a communication dated 24th March, 2021 (Annexure-2 to the affidavit-in-opposition), has communicated to the respondent No. 4 about the permanent retention of Gazetted & Non



Gazetted posts in 7 DIETs, of which Thadlaskein, where the petitioner is serving, is one of them.

7. In these circumstances, the only issue that remains is with regard to the objection raised by learned AAG that the writ petitioner has not come through a regular selection process to stake his claim to appointment against the said posts.

8. In this backdrop, looking into the facts and circumstances of the case and on perusal of the materials as placed, what emerges is that the writ petitioner, notwithstanding the fact that he was appointed by a Departmental Selection Committee, the same was made before any regular rules were in place. Further, the said appointment afforded to the writ petitioner was against a post that had been created in 1996, and had been retained as late as in 24th March, 2021. The petitioner having served for nearly 24 years is therefore entitled for some consideration, as his selection was neither irregular nor illegal.

9. Accordingly, in consideration thereof, the concerned respondents are directed to consider the regularization of the writ petitioner against the post he is serving, if necessary, by holding a special selection to be conducted by the concerned District Selection Committee. The same should preferably be completed within a period of three months from the date a copy of this order is presented before the respondents.



10. With the above directions, writ petition stands allowed to the extent indicated above and is disposed of.

Judge

Meghalaya
11.06.2024

SAMANTHA ANNA Digitally signed by SAMANTHA ANNA LIYA RYNJAH
LIYA RYNJAH Date: 2024.06.12 18:11:35 +05'30'