



Serial No.07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 407 of 2018

Date of Order: 17.10.2024

Smti. Deigrace Basaiawmoit Vs. 1.State of Meghalaya, Represented by the
D/o (L) L.Basaiawmoit Secretary to the Government of Meghalaya
R/o. Forest Colony, Forests and Environment Department,
Polo Ground, Shillong, Shillong.
East Khasi Hills District, Meghalaya.

2. The Under Secretary to the Govt. of
Meghalaya, Personnel & A.R. (B)
Department, Shillong.

3. The Principal Chief Conservator of
Forests & Hoff Meghalaya, Department
of Forest & Environment, Shillong.

4. The Divisional Forest Officer,
East Khasi Hills Territorial Division,
Shillong.

....Petitioner.

....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. H. Nongkhlaw, Adv.

For the Respondent(s) : Mr. K. P. Bhattacharjee, GA.

ORAL:-

Heard learned Counsels appearing for the parties.

The petitioner is primarily aggrieved by a communication made vide
Office Memo No. F(PR)-76/2009/54 dated Shillong, the 22nd February 2010



whereby the State-respondents have taken a decision to regularize her service w.e.f. 21.03.2016. The case of the petitioner is that she was appointed as L.D.A. on compassionate ground in the office of the Divisional Forest Officer, East Khasi Hills Division, Shillong vide O.O. No. 63 dated 16-06-1994 by the respondent No.3 and her service should have been approved/regularized w.e.f. the date of issue of the appointment order and not from 21-03-2016. Mr. H. Nongkhlaw, learned Counsel appearing for the petitioner contends that since the petitioner was appointed on compassionate ground by order dated 16-06-1994, the regularization of her service w.e.f. 21.03.2016, without assigning any reason thereof, is wholly unjustified and arbitrary and in defiance of settled norms of service law. It is the submission of the learned Counsel that once the petitioner was appointed on compassionate ground on a particular date, the approval of such appointment cannot be made effective from subsequent date which is more than two decades of her actual date of appointment.

Per contra, Mr. K. P. Bhattacharjee, learned GA appearing for the State-respondents submits that the initial appointment dated 16-06-1994 suffers from many deficiencies, inasmuch as, the said appointment was accorded without submission of the requisite documents and papers by the petitioner in terms of the stipulation made in the related scheme for compassionate appointment. He further submits that since the original appointment was not in accordance with the scheme for compassionate appointment, the communication dated 22nd March, 2016 by which the petitioner's service was regularized w.e.f. 21-03-2016 does not suffer from any illegality or arbitrariness.

On the query of the Court as to what was the specific deficiency in the initial appointment of the petitioner, the learned GA submitted that the petitioner had not submitted any application in standard form addressed to the Chief Secretary of the State as per requirement of the scheme of



compassionate appointment. However, the learned GA is not in a position to clarify as to whether the petitioner had rectified the alleged deficiency prior to the regularization of her service w.e.f. 21.03.2016 by the State-respondents.

Prima facie, it appears that if non-submission of requisite form of application was the reason for not according approval of the petitioner's service w.e.f. the date of issue of the appointment order, the State-respondent could not have regularized her service without fulfillment of the deficiency as pointed out by the learned GA. In such a situation, the State-respondent should not have gone ahead with the decision to approve the service of the petitioner. Since the State has taken a decision to approve the service of the petitioner, it is assumed that the deficiency, if any, in this regard stood rectified. However, there is nothing on record to justify as to why the approval has been given w.e.f. 21.03.2016 instead of the date of appointment of the petitioner.

At this stage, Mr. H. Nongkhlaw, learned Counsel appearing for the petitioner submits that the petitioner may be allowed to approach the respondent authority by filing a fresh representation to the State-respondent for redressal of her grievance. The learned GA has no objection to the prayer made.

In view of the above, this writ petition is disposed of with a liberty to the petitioner to approach the respondent Authority by filing a representation seeking redressal of her grievance. In the event, the petitioner files any such representation, the respondent authorities, particularly the respondent No. 1, shall dispose of the representation of the petitioner within a period of 3 (three) months from the date of submission of the representation.

The writ petition stands disposed of in the above terms.

No order as to costs.



Judge

Meghalaya
17.10.2024
“Biswarup PS”

