



Serial No.04
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.31/2023

Date of Order: 14.11.2024

Smti. Dil Kumari Chettri

..... Appellant

Vs.

1. The State of Meghalaya represented by its Chief Secretary.
2. The Secretary to the Government of Meghalaya, P.W.D. (Roads)
3. The Administrative Officer, P.W.D. (Roads), Meghalaya, Shillong.
4. The Executive Engineer, P.W.D. (Roads), N.H. Shillong Bye-Pass, Shillong, Meghalaya
5. The Chief Engineer, P.W.D. (Roads), N.H. Shillong Bye-Pass, Shillong, Meghalaya.

..... Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Ms. C.B. Sawian, Adv

For the Respondents : Mr. K. P. Bhattacharjee, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes/No |

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.



JUDGMENT: (per the Hon’ble, the Chief Justice) (Oral)

The appellant has since 1993 been rendering the menial service of cleaner in the office of the Executive Engineer, PWD (R), N.H. Shillong Bye-Pass Division. Her appointment letter of 19th July, 1993 was to this effect:

“Smti. D. Chettri is appointed as Cleaner on casual basis in the monthly pay of Rs.1000/- p.m. with effect from 1st April/93.

The appointment is purely temporary and may be terminated at any time without notice or assigning any reason thereof.

(L. Buam)
Executive Engineer, P.W.D. (Roads)
N.H. Shillong, Bye-Pass Division
Shillong.

Memo No.

Dated Shillong, the 19th July/93”

On 16th September, 1996, the Personnel and Admv. Reforms (B) Department, Government of Meghalaya published a Memorandum entitled the Casual/Muster Roll Workers, Wages and Benefits. By this memorandum, the Meghalaya Regular Casual Workers Scheme, 1996 was introduced. It applied to the casual workers in the departments and offices of the government who had been working for a continuous period for not less than ten years. On fulfillment of this eligibility criterion, a casual worker could be granted the status of a “Regular Casual Worker”



(RCW). The benefit of being included in the muster roll of RCW under the scheme was that in case of any vacancy in group 'D' post, it would be filled up from amongst the workers in that roll.

In the case made out by the respondents in the affidavit-in-opposition, it appears that the solitary ground on which the appellant was denied consideration for being included in the list of beneficiaries of the scheme was that according to the department, she was a part time worker. Only full time workers are entitled to the benefit of the scheme. Being part time she was ineligible.

The learned single judge on 20th June, 2023 disposed of the writ petition by not deciding the dispute with regard to the nature of appointment but nevertheless observing that considering the length and continuity of service, the respondents should consider the case of the appellant.

Mr. K.P. Bhattacharjee, learned counsel appearing for the respondents points out from the additional affidavit-in-opposition that subsequently the appellant had been included in the list of RCWs as on 1st May, 2024, as the last person in the list. Hence according to Mr. Bhattacharjee, the order of the Court had been complied with. He further adds that the date of birth of the appellant indicated in the list is



erroneous and that her year of birth is 1960. Such was recorded at the time of her initial appointment. Later on it is not known how it was changed to 1968.

We do not know on what basis the department recognised the appellant as RCW with effect from 19th September, 2023. In the letter of appointment of 1993, she was appointed as a casual worker at a salary of Rs.1000/- per month. There was no mention that her appointment was as a part time casual worker. There was also no mention of any duration of daily work. Now, the respondents contend that the appellant was required to work for only two hours a day from 8:00 am to 10:00 am.

We reject this contention. We have to go by the letter of appointment which plainly mentioned that she was appointed as a casual labourer. It has to be presumed that such appointment was not part time. Secondly, when no duration of working hours was mentioned, it is also to be presumed that she was required to work full time.

According to the scheme on rendering ten years continuous service, the appellant became eligible to be considered for appointment as RCW. Therefore in our considered opinion, she became so eligible in 2003.



As regards the age issue raised by Mr. Bhattacharjee, we observe that it was not the bone of contention before the learned single judge. At this point of time, the department has to go by the age mentioned in the list of RCWs as in May, 2024 annexed to the additional affidavit.

Mr. Bhattacharjee also contends that there is substantial delay in preferring the writ and on that ground the writ ought to have been dismissed. Learned counsel for the appellant meets this point by submitting that only on the occurrence of a vacancy after retirement of a cleaner holding a permanent post that the representation dated 18th February, 2019 was made by the appellant. Hence, the cause of action of the appellant arose at that point of time.

One point raised by Mr. Bhattacharjee has substantial merit. He says that a list of RCWs is maintained. Absorption and regularisation can only be made on the basis of vacancy occurring and such vacancies being filled up from the list in accordance with seniority.

In those circumstances, we dispose of this appeal by directing the respondents to revise the list of RCW on the basis of the following:

That the appellant was appointed as a casual worker without any nomenclature of part time by the appointment letter dated 19th July,



1993. Furthermore, on expiry of ten years that is in 2003, she became entitled to be included as RCW. Her name is to be included in the list of 2003 appointees. The entry of the appellant against serial number 98 of the said list is set aside. Let a fresh list of RCW be published within one month of communication of this order. The impugned judgment and order of the learned single judge dated 20th June, 2023 is modified to the above extent.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice