

Serial No.26
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 434 of 2022

Date of Decision :08.05.2024

Shri. Kennedy A. Sangma,
S/o. (L) Rainat Marak,
E/o. Nokil Awe, P.O. & P.S. Williamnagar,
East Garo Hills District, Meghalaya.

...Petitioner

-Versus-

1. The State of Meghalaya, represented by the
Commissioner & Secretary to the Government
of Meghalaya, Community and Rural
Development Department, Shillong.
2. The Director Community and Rural Development,
Meghalaya, Shillong.
3. The Deputy Commissioner,
Williamnagar, East Garo Hills District,
Meghalaya.
4. The Block Development Officer,
Songsak Development Block,
East Garo Hills District,
Meghalaya.
5. The Accountant General (A&E),
Shillong, Meghalaya.

...Respondents.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. A.G.Momin, Adv.
Ms. L.D.Sangma, Adv.

For the Respondent(s) : Mr.A.H.Kharwanalng, Addl.Sr.GA
for R 1-4.
Mr. K.Kharmawphlang, Adv. with
Ms. E.B.Passah, Adv. for R 5.

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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. The writ petitioner is before this Court praying for grant of regular scale of pay from the date of his initial appointment i.e., 01-08-1992 on adhoc service of Gram Sevak against the existing vacancies.

2. Mr. A.G.Momin, learned counsel appearing for the petitioner has submitted that the writ petitioner, after being appointed on 01-08-1992, was thereafter regularized in service with all attendant service benefits on 19th August, 1996, and has since retired on 31st December, 2018. It has been submitted that as per Rule 10 of the Meghalaya Civil Service Pension Rules, 1983, the qualifying service of a government servant should

commence from the date he takes charge of the post to which he is initially appointed, either substantially or in officiating or temporary capacity. Further in support of his case, learned counsel has produced Notifications No.PER(AR)193/79/160, dated 20th November, 1978 and No. PER(AR) 193/78/220, dated 8th July, 1983, for counting of the period of officiating appointment or adhoc appointment towards leave, increment etc. He therefore, submits that the petitioner having been temporarily appointed on an adhoc basis since 1992, his service is to be counted from that date itself for the purpose of increments and pension.

3. Mr. A.H.Kharwanlang, learned Addl. Sr. GA for the respondent Nos. 1-4, has at the outset raised strong objections on the ground of delay and acquiescence. He submits that it is only in the year 2021 in connection with non-payment of pension that the writ petitioner had approached this Court, and before that, had never agitated for the reliefs that he is now praying for. He further submits that the terms of appointment by way of the order dated 01-08-1992, has clearly spelt out the conditions, which the petitioner on entering employment had accepted, and as such, at this late stage cannot turn around to demand the service benefits which were not permissible at the time when he entered employment itself. He further submits that the Notifications placed by the learned counsel for the petitioner would have no application, inasmuch as, the prayer in the writ

petition is for grant of regular scale of pay as advertised in the advertisement dated 25th January, 1991, while the Notifications deals with the counting of the officiating appointment towards leave, increment and pension.

4. I have heard learned counsel for the parties.

5. A perusal of the appointment order dated 01-08-1992, shows that the writ petitioner was appointed in the office of the Block Development Officer on a lump-sum fixed monthly salary of ₹ 900/- (Rupees Nine hundred) only per month without any allowances. The appointment order being relevant is reproduced herein below:

*“GOVERNMENT OF MEGHALAYA
OFFICE OF THE DEPUTY COMMISSIONER,
EAST GARO HILLS DISTRICT
WILLAIMNAGAR*

ORDER

No. EGH/ESTT.133/89/46, on the recommendation of the District Selection Committee, East Garo Hills, Williamnagar vide letter No. EGH/DSC.46/92/1 dt. 1.8.1992 the following persons are hereby appointed as gram sevak on Ad hoc basis against existing vacancy post of Gram Sevak in the office of the Block Development Officer as indicated below on an lump-sum fixed monthly salary of Rupees 900/-(Rupees Nine hundred only) per month without any allowances subject to the terms and conditions enclosed herewith issued by the Government.

<i>Sl. No. Name of the incumbent and address:</i>	<i>Place of posting:</i>
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1. <i>Shri. Kennedy Sangma S/o Lt: Rajnat Marak</i>	<i>Songsak Dev. Block</i>
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*c/o: Shri Taruna Momin
D.T.O office, Williamnagar*

2. *Shri. Uttam Kr. Seal
S/o Shri Dibendro Ch. Seal Resubelpara Dev. Block
c/o Star Electrical,
P.O: Williamnagar*
3. *Shri. Ester R Sangma
S/o Shri Naman R Marak
v/ Rongkamanchi
P.O Thapa Bazaar.*

*Sd/-
S.S Gupta
Deputy Commissioner,
East Garo Hills District
Williamnagar.*

*Memo No. No.EGH/ESTT.133/89/46-A
Dated Williamnagar the 1st August 1992*

Copy to:

1. *The Director of Community and Rural Development
Department, Meghalaya, Shillong*
2. *The (illegible)/Resubelpara Development Officer for
their information.”*

6. The terms and conditions can be seen from the appointment order as to its nature, purport and entitlements which the petitioner accepted when he entered employment. Regularisation was accorded on his completion of training as Gram Sevak, where after, he was given the prescribed scale of pay along with other allowances and he continued as such until retirement.

7. From the above facts and the materials on record, the writ petitioner had at no point of time agitated for regularization of his services from the date of his initial temporary appointment on 01-08-1992, or that the same be taken into account as the period of qualifying service for any other incidental service benefits. In the instant writ petition also, the prayer of the writ petitioner is only for a direction to the respondents to grant a regular scale of pay as advertised in the advertisement dated 25th January, 1991. As submitted by the learned Addl. Sr. GA, the applicability of the Notifications No.PER(AR)193/79/160, dated 20th November, 1978 and No.PER(AR).193/78/220, dated 8th July, 1983 also are in question, inasmuch as, the terms of appointment of the writ petitioner which was accepted will be of no assistance in furthering his case. Even by the instant writ petition, the petitioner has not sought for any direction for consideration of regularization of his services from the date of his initial appointment, and in fact, has relied only on the Notifications which deals with the counting of adhoc service for leave, increment etc.

8. As such, in view of the incompetent prayer and the fact that the petitioner has not prayed or ever agitated for regularization of his services from the date of his initial appointment, no relief can be granted presently.

9. Accordingly, the writ petition is closed and disposed of.

Judge

Meghalaya
08.05.2024
"Samantha PS"