

GAHC040003152024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/102/2024

Laiwang Wangham
Son of Towang Wangham,
C/o District Agriculture Officer, Longding,
District Longding, Arunachal Pradesh

VERSUS

The State of AP and 3 Ors represented by the Chief Secretary, Govt of Arunachal Pradesh, Itanagar

2:The Director of Agriculture
Age: 0 Occupation
Govt of Arunachal Pradesh Naharlagun

3:The District Agriculture Officer
Age: 0 Occupation :
Longding District
Longding Arunachal Pradesh

4:Ajat Arangram
Age: 0 Occupation :
C/o District Agriculture Officer Longding District
Longding Arunachal Pradesh

Advocate for the Petitioner : D K Deori

Advocate for the Respondent : Ms. K. Wangmu GA (AP)
Mr. L. Perme, SC, Department of Agriculture.

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 03-04-2024

Heard Mr. D. K. Deori, learned counsel for the petitioners. Also heard Ms. K. Wangmu, learned State counsel appearing for the respondent No. 1 and Mr. L. Perme, learned standing counsel for the Department of Agriculture representing respondents No. 2 & 3. None appears for the respondent No. 4 despite acknowledged the notice served through the learned standing counsel for the Department of Agriculture.

2. The challenge made in this writ petition is the order No. Agri/Est-10/2005-06, dated 16.02.2024, passed by the Director of Agriculture, Government of Arunachal Pradesh, Naharlagun whereby the respondent No. 4 namely, Shri Ajat Arangram, a contingent worker under Arunachal Pradesh Marketing Committee (APMC) has been appointed provisionally till DPC as Peon vice Shri V.S. Prasad ex-peon, who retired on 31.01.2024, under the establishment of District Agriculture Officer, Longding.

3. The case of the petitioner is that the petitioner is serving as contingent worker since last 24 years under the establishment of District Agriculture Officer, Longding, Arunachal Pradesh having been appointed on 03.02.2000. The petitioner has applied for regular appointment to the post of Peon against the vacant post occurred on the retirement of Shri V.S. Prasad. It is contended that

the respondent No. 4 was appointed in the year 1996 as contingent worker in the APMC, Longding. Vide impugned order No. Agri/Est-10/2005-06, dated 16.02.2024, the respondent No. 4 has been appointed as Peon provisionally till DPC to a vacant post due to retirement of Shri V.S. Prasad without considering the case of the petitioner and de hors the Rules.

4. Mr. D. K. Deori, learned counsel, submits that the petitioner is working as contingent worker under the establishment of District Agriculture Officer, Longding and having been appointed on 03.02.2000. Though the respondent No. 4 claims to have been appointed in the year 1996 as contingent worker, he has been serving in the APMC and not in the Office of the District Agriculture Officer, Longding. The post in question has fallen vacant on the retirement of one Shri V.S. Prasad who was a regular Peon in the Office of the District Agriculture Officer, Longding, therefore, the respondent No. 4 is not entitled to be appointed to a post under the District Agriculture's Officer as the respondent No. 4 is serving as contingent worker in APMC.

5. Mr. L. Perme, learned standing counsel for the Department of Agriculture fairly, submits that the post of Peon ought to have been filled up after holding DPC. Since the respondent No. 4 has been appointed, though provisionally, without holding DPC, the same may not stand the scrutiny of law.

6. Due consideration has been extended to the submissions of the learned counsel for the parties and also perused the materials available on record.

7. On perusal of the impugned appointment order dated 16.02.2024, it transpires that the respondent No. 4 has been appointed, though provisionally, till the DPC is held as Peon on a regular post having been fallen vacant after the retirement of one Shri V.S. Prasad. It also transpires that while a copy of the

appointment letter is forwarded to the District Agriculture Officer, Longding, a request has been made to conduct DPC Board as soon as possible and submit in the Directorate for formal order. Having considered the above, it appears that the proposed conduct of DPC would be an eyewash as the tenor of the order clearly implies that the DPC is sought to be conducted only for issuance of formal order.

8. It is also noticed that the respondent No. 4 is also working as contingent worker however, he is serving in the establishment of APMC, which may be under the Agriculture Department and the petitioner is working as contingent worker in the Office of the District Agriculture Officer, Longding. The post of Peon in question is under the Office of the District Agriculture Officer, Longding.

9. As per the General Arunachal Service, Multi Tasking Staff (Daftary/Peon/Chowkider/Mali/Dak Runner/ Sweeper/Kennel Man/ Water Carrier/ Washer man/ Cobbler and equivalent post), Non Gazatted, Group-C (Non Ministerial) Common Recruitment (1st Amendment) Rules, 2021, 50% of the vacancies shall be filled up from amongst the serving un-skilled contingency staff/Auxiliary Labour Corps (ALC)/Casual Labour who have completed 15 years of service in their respective offices/Departments and who possess educational qualification of Class-X/ITI or equivalent pass certificate from a recognized Board or institution. It also provides that selection shall be made on the recommendation of the Departmental Selection Committee on the basis of the seniority, performance, punctuality and integrity certificate.

10. It is taken note that the qualification of the petitioner is Class-X pass and the respondent No. 4 is Class-VIII pass.

11. Having considered the matter in its entirety I am of the considered view

that the respondent authority has acted in complete contravention of the provisions of applicable Rule as no Departmental Selection Committee has been conducted. That apart, in the provisional appointment impugned order dated 16.02.2024, a request has been made to conduct DPC Board for formal order. Thus, the impugned appointment order, dated 16.02.2024, in favour of the respondent No. 4, though provisionally, has been made clearly dehors the rules.

12. In view of above, the impugned order No. Agri/Est-10/2005-06, dated 16.02.2024, passed by the Director of Agriculture, Government of Arunachal Pradesh, Naharlagun is not sustainable and accordingly, same is set aside and quashed.

13. It is provided that the respondent authorities are at liberty to fill up the post of Peon in question strictly in terms of the applicable Rules.

14. Writ Petition stands allowed and disposed of.

No order as to costs.

JUDGE

Comparing Assistant