

GAHC010013722014



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

Case No. : WP(C)/4183/2014

TARUN BHUYAN
S/O SRI NARAYAN BHUYAN, R/O KAKOJAN KOMAR KHATOWAL GAON,
P.O. KOMAR KHATOWAL , DIST- JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT, DISPUR, GHY-6, ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
ASSAM
REHABARI
GHY-8

3:THE CHIEF CONSERVATOR OF FORESTS T
UPPER ASSAM ZONE
JORHAT
DIST- JORHAT

4:THE CONSERVATOR OF FORESTS EASTERN ASSAM
CIRCLE
JORHAT
DIST- JORHAT

5:THE DIVISIONAL FOREST OFFICER
JORHAT DIVISION
JORHAT
DIST- JORHA

Advocate for the Petitioner : MR.A BARUA
Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

25-07-2024

Heard Shri A. Baruah, learned counsel for the petitioner. Also heard Shri I. Borthakur, learned counsel representing the Forest Department.

2. The matter pertains to a claim for regularization of service.

3. As per the facts projected, the petitioner was engaged as a Casual Worker in the Forest Department in February, 1992 and has been continuing in his service. It is contended that on 04.11.2009, there was a move by the Department for regularization of services of all Casual Workers engaged prior to 01.04.1993 and accordingly a list of Casual Workers was sent for regularization which however did not contain the name of the petitioner. The petitioner had earlier filed WP(C)/728/2013 on the issue of regularization and this Court vide order dated 18.02.2013 had directed to send the name of the petitioner for such consideration. However, the consequential order of regularization was not passed and accordingly the instant writ petition has been filed.

4. The learned counsel for the petitioner has submitted that the petitioner is in continuous service as Casual Worker for a long period of time and therefore his case for regularization may be directed to be considered. The learned counsel has however fairly pointed out that in this proceeding, there is an order dated 08.04.2015 whereby Rule was issued and the matter was directed to be listed after disposal of WA/45/2014. He has also informed this Court that WA/45/2014 which was an appeal preferred by the State has been allowed and the claim for

regularization by similarly situated employees has been negated by the Hon'ble Division Bench vide a judgment delivered on 08.06.2017.

5. Shri Borthakur, the learned counsel representing the Department has submitted that in view of the law laid down by the Hon'ble Division Bench in the aforesaid case of ***State of Assam Vs Upen Das & Ors.*** reported in ***2020 (5) GLT 605***, there is no scope of regularization.

6. The case of ***Upen Das*** (supra) was an appeal preferred by the State against certain directions passed by the learned Single Judge on the aspect of regularization. Earlier, there was a policy of regularizing Muster Roll and Work Charged Employees who are engaged prior to 01.04.1993. However, after the pronouncement of the judgment by the Hon'ble Supreme Court in the case of ***State of Karnataka Vs Uma Devi (3) reported in (2006) 4 SCC 1***, there was further deliberation of the matter as the Hon'ble Supreme Court has laid down certain conditions, that too for an one-time measure and those conditions includes the aspect of there being a vacant sanctioned post in which the initial appointment was done, the aspect of eligibility and also continuation of service for a minimum of 10 years without any order of a Court.

7. The Hon'ble Division Bench in the aforesaid case of ***Upen Das*** (supra) has held that regularization of service of such employees who do not fulfill the requirement laid down in the case of ***Uma Devi*** (supra) cannot be directed. The Hon'ble Court however on a concession made on behalf of the State had made certain observations on payment of minimum pay scale.

8. In view of the aforesaid judgment passed in ***Upen Das*** (supra) case which was already noted by this Court as would reflect in the order dated 08.04.2015,

no effective relief can be granted to the petitioner.

9. Accordingly, the petition stands dismissed.

10. The petitioner however would be entitled to get the benefit of the observations made in the case of ***Upen Das*** (supra) regarding minimum pay if he is still in service.

JUDGE

Comparing Assistant