

GAHC020001892022



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

Case No. : WP(C)/71/2022

SHRI. H.TSIPONGSE SANGTAM
OFFICE OF THE EXECUTIVE ENGINEER, PWD (C), DIVISION, TUENSANG,
NAGALAND. R/O MANGAKHI VILLAGE, LONGKHIM TUENSANG, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND 2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF NAGALAND
DEPARTMENT OF NPWD (R AND B) NAGALAND KOHIMA

3:THE CHIEF ENGINEER
NPWD (R AND B) KOHIMA NAGALAND

4:THE EXECUTIVE ENGINEER
PWD (H) TUENSANG (C) DIVISION
TUENSANG
NAGALAND

5:THE SUB-DIVISIONAL OFFICER
PWD (HOUSING)
TUENSANG
NAGALAN

For the Petitioner(s) : Mr. Toshitemjen Pongener, Advocate

For the Respondent(s) : Ms. Lichano, Government Advocate

**BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 26.02.2024

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in considering the case of the Petitioner for regularization.
2. It is the specific case of the Petitioner that the Petitioner was appointed as a work-charged S/Assistant vide Office Order No.EE/TSG/F/CD/APT-8/1435-38 dated TSG, the 29th March, 1995 under the establishment of S.D.O. (PWD) in the Scale of Pay of Rs.1150-30-1450-35-1800-40-2120 per month and all other allowance as admissible from time to time from the date of joining.
3. It is the specific case of the Petitioner that the Petitioner has rendered 27 years of service as on the date of filing of the writ petition however, the Petitioner has not been regularized whereas the persons who were junior to the Petitioner have been regularized. It was under such circumstances, the Petitioner has submitted an application under the Right to Information Act, 2005 and gathered information that the Respondent Authorities were regularizing the persons who were junior, for which the Petitioner has filed the instant writ petition seeking a similar treatment.
4. The record reveals that an affidavit-in-opposition has been filed by the Respondent Nos. 1 to 5 on 08.12.2022. In the said affidavit-in-opposition, it has been mentioned that as per the OM dated 17.03.2015, all existing work-charge and casual employees of various departments who are enjoying scale of pay and who have

completed 30 years or more continuous service as on 01.01.2015 would be regularized by conversion of their post into regular ones personal to them.

5. This court at this stage finds it relevant to take note of the OM dated 17.03.2015 wherein in Clause 1(ii), it has been specifically stipulated that in respect of those work-charged and casual employees in scale of pay and who have completed or will complete 30 years of continuous service after 01.01.2015, their cases for regularization will be taken up subsequently in two batches as on 1st of July and 1st of January every year. The procedure and the terms and conditions would be same as laid down in the said Office Memorandum.

6. Subsequent to the filing of the said affidavit-in-opposition, an additional affidavit-in-opposition was filed by the Respondent State wherein the Respondent State duly admitted that the Petitioner herein was enjoying a scale of pay however, the Petitioner has not completed 30 years. Paragraph No.3 of the said additional affidavit being relevant is reproduced herein under:

“3. That it is not denied that the Petitioner has been serving the Department for more than 27 years and as per the OM No.AR-3/GEN-201/2009 dated 17.03.2015 scheme for work charged and casual employees and Revision of pay/wages, it is stated that all existing work charge and casual employees of various Department who are enjoying scale pay and have completed 30 years or more continuous service then they are entitled/allowed to be regularized by conversion of their post into regular ones personal to them. Thus, the Petitioner’s case will also be considered only if he falls within the zone of consideration, that is, he fulfills the criteria laid down in the said OM.”

7. From the above stand of the Respondent State and also taking into account the Office Memorandum dated 17.03.2015, it is apparent that the Petitioner's case cannot be taken up for consideration for regularization until and unless the Petitioner completes 30 years of service.
8. Taking into account the specific stand which have been taken at paragraph No.3 of the additional affidavit-in-opposition, this Court disposes of the instant writ petition with a direction to the Respondent Authorities to consider the case of the Petitioner for regularization upon the Petitioner completing 30 years of service in terms with the Office Memorandum dated 17.03.2015.
9. With above observations and directions, the instant writ petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant