



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

Case No. : WP(C)/125/2023

SHRI HAMNGOI PHOM AND 4 ORS
W/C KHALASI,
OFFICE OF THE EXECUTIVE ENGINEER,
PHED, LONGLENG, NAGALAND

2: SMTI CHAIMAI PHOM @CHHIMEI PHOM
W/C KHALASI
OFFICE OF THE EXECUTIVE ENGINEER
PHED
LONGLENG
NAGALAND

3: SMTI PONGTING PHOM
W/C KHALASI
OFFICE OF THE EXECUTIVE ENGINEER
PHED
LONGLENG
NAGALAND

4: SHRI YUNGKUM PHOM @ C. YINGKAM PHOM
W/C KHALASI
OFFICE OF THE EXECUTIVE ENGINEER
PHED
LONGLENG
NAGALAND

5: SHRI M. HONGBA PHOM
W/C FITTER HELPER
OFFICE OF THE EXECUTIVE ENGINEER
PHED
LONGLENG
NAGALAN

VERSUS

THE STATE OF NAGALAND AND 4 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT
NAGALAND
KOHIMA

3:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
PUBLIC HEALTH ENGINEERING DEPARTMENT
NAGALAND
KOHIMA

4:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
NAGALAND
KOHIMA

5:THE EXECUTIVE ENGINEER
PHED
LONGLENG
NAGALAND

Advocate for the Petitioner : SUPONGWATI WALLING, R ATSULA KIPS

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA

JUDGMENT & ORDER (ORAL)

Date : 18-10-2024

Heard Mr. Supongwati Walling, learned counsel for the petitioners and Ms. A. Ayemi, learned Government Advocate for the State respondents.

2. That by the office order dated 31/07/1986, the petitioner No.1 was appointed in the fixed pay of Rs. 375/- p.m w.e.f. 21/07/1986 under the establishment of Executive

Engineer PHED, Longleng, Nagaland. Thereafter, by the order dated 15/01/2020, the petitioner was promoted/upgraded to W/C Khalasi in the scale pay of Rs. 3000-15200/- p.m with grade pay of Rs. 1300/- p.m.

3. That by the office order dated 22/04/1986, the petitioner No.2 was appointed as W/C Labour in the fixed pay of Rs. 375/- p.m w.e.f. 21/04/1986 under the establishment of SDO (PHED), Longleng, Nagaland. Thereafter, by the office order dated 15/01/2020, the petitioner was promoted/upgraded to W/C Khalasi in the scale of pay of Rs. 3000-15200/- p.m. with grade pay of Rs. 1300/- p.m.

4. That the petitioner No.3 was appointed as W/C Labour w.e.f. 20/08/1986 under the establishment of Executive Engineer, PHED, Longleng, Nagaland and by the office order dated 15/01/2020, the petitioner was promoted/upgraded to W/C Khalasi in the scale of pay of Rs. 3000-15200/- p.m. with grade pay of Rs. 1300/- p.m.

5. That by the order dated 21/08/1989, the petitioner No. 4 was appointed as W/C Labour in the fixed pay of Rs. 375/- p.m w.e.f. 21/08/1989 under the establishment of the Executive Engineer, PHED, Longleng, Nagaland. Thereafter, by the order dated 15/01/2020, the petitioner was promoted/upgraded to W/C Khalasi in the scale of pay of Rs. 3000-15200/- p.m. with grade pay of Rs. 1300/- p.m.

6. That by the order dated 19/04/1989, the petitioner No.5 was appointed as W/C Labour in the fixed pay of Rs. 375/- p.m. w.e.f. 21/04/1989 under the establishment of the Executive Engineer, PHED, Longleng, Nagaland. Thereafter, by the order dated 24/02/2017, the petitioner was promoted/upgraded to W/C Khalasi in the scale of pay of Rs. 3000-15200/- p.m. with grade pay of Rs. 1300/- p.m.

7. It is the case of the petitioners that they are all eligible to be considered for regularisation in service in terms of the O.M dated 17/03/2015, which formulates the scheme of the Government for regularisation and absorption of work-charged and casual employees and the revision of pay/wages. The petitioners had accordingly submitted the representation dated 09/06/2023 to the Chief Engineer, PHED, Nagaland, Kohima, for regularisation of their service. However, since the representation submitted by the petitioner did not evoke any positive response, the petitioners have filed the present writ petition seeking for a direction to the State respondents to regularise the service.

8. Ms. A. Ayemi, the learned Government Advocate for the State respondents submits that the case of the petitioner for regularisation in service is under the active consideration of the Government and in support of the submission, has referred to the paragraph-7, 8 & 9 of the affidavit-in-opposition sworn by the Additional Chief Engineer, PHED, Nagaland, Kohima, which is reproduced herein below;

“7. That with regard to the statement made in paragraph-7 and 8 of the writ petition, the deponent begs to state that the name of the petitioners along with similarly situated employees were submitted to the Government vide letter dated 17.11.2020 for regularisation and absorption of work-charged employees. The petitioners are at the 12th phase and their names are reflected in serial No. 1,2,3 and 7 under Longleng division.

The case of the petitioner No. 1, 2 and 4 have been approved by the MRC(Manpower Rationalization Committee) recently and is under process to be put up before the Cabinet. As for the petitioner No.3 her case is pending before MRC till date.

8. That with regard to the petitioner No.5, his case along with similarly situated employees were submitted to the Government vide letter dated 18/03/2020 for regularisation and absorption of work-charged employees. The name of the petitioner No.5 is reflected at serial No. 2 under Longleng division and is before the Finance Department for approval.

9. That with regard to the statement made in paragraph-9 of the writ petition, the deponent begs to submit that the name of the petitioner along with other similarly situated employees are under process for consideration, hence no right of the petitioner is denied nor is there any violation of his fundamental rights under Article 14 and 16.”

9. Mr. Supongwati Walling submits that in view of the submission made by the State respondents in their affidavit-in-opposition that the case of the petitioners for regularisation in service has been taken up and processed by the Government, the writ petition can be disposed with the direction to the State respondents to complete the process of regularisation of the service of the petitioners within a reasonable time. Ms. A. Ayemi, the learned Government Advocate is not adverse to the submission made by the learned counsel for the petitioners which is limited to the consideration of the regularisation of the service of the petitioners within a reasonable time.

10. Upon hearing the learned counsel for the parties and on the perusal of the pleadings exchanged between the parties, more particularly the affidavit-in-opposition filed by the State respondents wherein, the State respondents has averred that the case of the petitioners for regularisation in service has been processed and under consideration, this Court is of the view that the writ petition can be disposed at the admission stage with a direction to the State respondents to consider the regularisation in service of the petitioners in the light of the averments made by the Government in the affidavit-in-opposition and strictly in terms of the O.M dated 17/03/2015 and in accordance with law.

11. The State respondents shall complete the process for consideration of regularisation of the service of the petitioners at an early date but not exceeding 6(six) months from the date of passing of the order.

12. Writ petition disposed.

JUDGE

Comparing Assistant