



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

Case No. : WP(C)/170/2023

APIO SANGTAM
PEON, OFFICE OF THE CHIEF MEDICAL OFFICER, KIPHIRE NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
NAGALAND
DEPARTMENT PF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

3:THE PRINCIPAL DIRECTOR
DEPARTMENT PF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

4:THE DIRECTOR
DEPARTMENT PF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

5:THE CHIEF MEDICAL OFFICER
NAGALAND KIPHIRE

Advocate for the Petitioner : ANUNGLA LKR, TOSHITEMJEN PONGENER

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

11.11.2024

Heard the learned counsel for the parties.

Briefly stated the petitioner's case is that though he enjoyed the scale of pay as per ROP 1993 when he was initially appointed in 2007 as Peon on temporary basis, in CMO, Office Kiphire, his scale of pay has remained stagnant inspite of the fact that three ROPs i.e. 1999, 2010 and 2017 have been implemented in the State of Nagaland and all the employees of the State Government have been given the benefits, therefore he should also be given the benefit of the latest ROP 2017.

In support of the case of the petitioner, Mr. T. Pongener, learned counsel, has referred to paragraph 57 and 58 of the judgment passed in the case of State of Punjab and Others vs Jagjit Singh and Others reported in 2017 1 SCC 148. Contents of the two paragraphs are reproduced here below:-

57. There is no room for any doubt, that the principle of 'equal pay for equal work' has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court.

The same is binding on all the courts in India, under Article 141 of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove. The principle of 'equal pay for equal work' has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary

employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

Heard Ms. S. Mere, learned Sr. Government Advocate appearing for the State respondents.

It appears from the appointment order of the petitioner issued by the Joint Director, Health & Family Welfare, Nagaland dated 30.01.2007 which is at Annexure-I of the writ petition that the petitioner was appointed as Peon on temporary basis in the scale of pay of ROP 1993.

The principle of law on granting equal pay to employees who are appointed on work charged, temporary basis etc has been laid down by the Apex Court with judgment of Jagjit Singh (Supra) cited by the learned counsel for the petitioner.

However, considering the limited prayer of the writ petitioner

and without going so much into the merit, this writ petition is disposed of with a direction that the respondents should consider the representation dated 16.03.2022 of the petitioner which is at Annexure-3 of the writ petition in the light of the principle of law laid down by the Hon'ble Supreme Court in Jagjit Singh (Supra) within a period of 3 months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant