

GAHC020004542023



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

Case No. : WP(C)/179/2023

SHRI. THSENGTSATO S.
RETD. WORK CHARGE CARPENTER HELPER,
R/O KIPHIRE TOWN,DISTRICT - KIPHIRE, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF NAGALAND,
NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF WORKS AND HOUSING

NAGALAND
KOHIMA

3:THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT(HOUSING)

NAGALAND
KOHIMA

4:THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPARTMENT(HOUSING)

TUENSANG DIVISION
NAGALAND

5:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS

NAGALAND
KOHIMA

6:THE SECRETARY TO THE GOVERNMENT OF NAGALAND

DEPARTMENT OF FINANCE

NAGALAND
KOHIM

Advocate for the Petitioner : Mr. Benison V. Shohe, Advocate

Advocate for the respondents : Ms. S. Chang, Advocate

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 06.06.2024

Date of Judgment : 06.06.2024

JUDGMENT AND ORDER (ORAL)

The petitioner herein have invoked the jurisdiction under Article 226 of the Constitution being aggrieved by the inaction on the part of the respondent authorities to grant the petitioner the benefit in terms with the Office Memorandum dated 17.03.2015.

2. Heard Mr. Benison V. Shohe, the learned counsel appearing on behalf of the petitioner and Ms. S. Chang, the learned counsel appearing on behalf of the respondents.

3. It is the case of the petitioner that the petitioner was appointed on 12.09.1985 as Work-Charged Carpenter Helper under

the establishment of Sub-Divisional Officer (PWD), Kiphire Sub-Division, Nagaland in the scale of pay of Rs.375-7-445-9-10-590 per month plus other allowances admissible from time to time. The petitioner on completion of 35 years of service was released on 30.09.2020.

4. It is the further case of the petitioner that the petitioner is entitled to be regularized in terms with the Office Memorandum dated 17.03.2015 in as much as the petitioner completed 30 years of continuous service on 11.09.2015. However, the case of the petitioner was considered although it is mandated in terms with Clause 1 (ii) of the Office Memorandum dated 17.03.2015 which stipulates that in respect of those Work-Charged and casual employees in the scale of pay and who have completed and 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. It is the case of the petitioner that the respondent authorities have not taken into consideration that the petitioner was entitled for regularization on 01.01.2016 and therefore the petitioner had submitted a representation to which the respondent authorities have turned the deaf year. It is under such circumstances, the instant writ petition was filed.

5. This Court duly takes note of that vide an order dated 12.09.2023, notice was issued. It is seen that the respondent authorities have sought for adjournments for filing the affidavit-in-opposition on 12.10.2022; 06.11.2023, 12.02.2024; 05.03.2024;

02.04.2024; 18.04.2024 as well as on 13.05.2024, but have not filed the affidavit-in-opposition. This Court also takes note of the submission made by the learned counsel for the petitioner that the petitioner's right to life and livelihood have been taken away in as much as if the petitioner's case would have been considered for regularization, the petitioner would have also been entitled to pension. However, in view of the inaction of the respondent authorities, the petitioner has been deprived of pension for the last 4 years. Under such circumstances, the learned counsel appearing on behalf of the petitioner expresses great urgency.

6. This Court taking note of and also upon perusal of the Office Memorandum dated 17.03.2015 is of the opinion that if the petitioner was duly appointed on 12.09.1985 and had been granted the scale of pay, the petitioner's case ought to have been considered by the respondent authorities as far back as on 1st of January, 2016 in as much as the petitioner duly completed 30 years on 11.09.2016.

7. Taking into account that the respondent authorities have not complied with the mandate as stipulated in Clause 1 (ii) of the Office Memorandum dated 17.03.2015, this Court therefore disposes of the instant writ petition thereby directing the respondent authorities, more particularly the respondent Nos.2 & 3 to take appropriate steps in terms with Clause 1 (ii) of the Office Memorandum dated 17.03.2015 so that the petitioner's case is duly considered for regularization w.e.f. 01.01.2016.

8. This Court finds it relevant to observe that the instant

judgment is passed on the basis of the statements made in the writ petition that the petitioner was duly appointed on 12.09.1985 and was granted a scale of pay. The respondents have however not filed an affidavit, inspite of various opportunities. Be that as it may, the respondent prior to carrying out the direction passed in paragraph No.7 above would be at liberty to carry out the said verification. It is clarified that upon verification if it is found that the petitioner was duly appointed on 12.09.1985 and was granted the scale of pay, the above directions be complied with. In addition to that, this Court observes and directs that the petitioner would also be entitled to all service benefits viz. pension etc. pursuant to the regularization.

9. The said exercise be completed by the respondent authorities within 5 (five) months from the date a certified copy of the instant judgment is served upon the respondent Nos.2 & 3.

10. In view of the above, the instant petition stands disposed of.

JUDGE

Comparing Assistant