

GAHC020006672023

2024:GAU-NL:523



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

Case No. : WP(C)/293/2023

SHRI KHAKIYE
WORK CHARGED MASON (HELPER),
OFFICE OF THE EXECUTIVE ENGINEER,
PWD (R AND B), AGHUNATO DIVISION,
ZUNHEBOTO, NAGALAND

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

WORKS AND HOUSING

NAGALAND
KOHIMA

4:THE ENGINEER-IN-CHIEF

NAGALAND PUBLIC WORKS DEPARTMENT

NAGALAND
KOHIMA

KOHIMA
NAGALAND

5:THE CHIEF ENGINEER

NAGALAND PUBLIC WORKS DEPARTMENT (R AND B)

KOHIMA
NAGALAN

Advocate for the Petitioner : SUPONGWATI WALLING, R ATSULA KIPS

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY**

JUDGMENT

26.09.2024

Heard Ms. R. Atsula Kips, learned counsel for the petitioner and Mr. M. Longkumer, learned Junior Government Advocate appearing for all the respondents.

2. In view of the nature of issue involved and as agreed to by the learned counsel for the parties, this writ petition is taken up for consideration at the admission stage itself.

3. The projected case of the petitioner is that by an Office Order dated 11.06.1993, the petitioner came to be appointed as a Work-Charged Labour on fixed pay and pursuant to the said Office Order, the petitioner joined his service as a Work-Charged Labour in the establishment of the Executive Officer, Public Works Department, Aghunato Division, Aghunato, Nagaland. While the petitioner was

continuing his service, he was promoted to Work-Charged Mason [Helper] by providing him scale of pay by a Corrigendum dated 29.11.2016 issued by the Engineer-in-Chief, NPWD, Kohima.

4. Having regard to the situation faced by the Work-Charged and Casual Employees in the State of Nagaland, the Personnel & Administrative Reforms Department, Government of Nagaland has framed a scheme for regularization and absorption of Work-Charged and Casual Employees in the year 2015 and the said scheme has been notified by an Office Memorandum dated 17.03.2015. As per the said Office Memorandum dated 17.03.2015, all existing Work-Charged and Casual Employees of various departments who are enjoying scale of pay and who have completed 30 years or more continuous services as on 01.01.2015 would be regularized by conversion of their posts into regular ones personal to them and subject to fulfillment of conditions mentioned therein. It has been further mentioned that in respect of those Work-Charged and Casual Employees in scale of pay who have completed or would complete 30 years of continuous services after 01.01.2015, their cases for regularization would be taken up subsequently in two batches as on 1st July and 1st January every year.

5. It is the further case of the petitioner that finding the petitioner eligible for regularization, the Office of the Executive Engineer, PWD [R&B], Aghunato Division vide its letter dated 16.08.2023 forwarded the case of the petitioner to the Engineer-in-Chief, NPWD, Nagaland for consideration. The petitioner had also submitted a Representation before the Engineer-in-Chief, NPWD, Nagaland on 03.10.2023 and receipt of the said representation was duly acknowledged by the office of the Engineer-in-Chief, NPWD, Nagaland on 03.10.2023.

6. As no action seemed to have been taken regarding regularization of the services of the petitioner in terms of the Office Memorandum dated 17.03.2015, the petitioner is before this Court by way of this writ petition seeking inter alia a direction

to the State respondents to regularize the services of the petitioner in terms of the Office Memorandum dated 17.03.2015.

7. Ms. Kips, learned counsel for the petitioner has submitted that in an earlier occasion, this Court by an Order dated 29.05.2023 passed in a writ petition, W.P.[C] no. 267/2022, directed the State respondents to complete the process of regularization of the services of the petitioners therein, who were similarly situated like the petitioner herein, within a stipulated period of time.

8. Mr. Longkumer, learned Junior Government Advocate appearing for the State respondents has submitted that as the petitioner is similarly situated like the petitioners in the writ petition, W.P.[C] no. 267/2022, this writ petition can be disposed of with similar directions.

9. The State respondents through the Joint Secretary to the Government of Nagaland, Works and Housing Department has filed an affidavit-in-opposition wherein it has been averred that though the petitioner has fulfilled the two main conditions of 30 years of continuous services as Worked-Charged employee and enjoyment of a scale of pay, the other conditions laid down in the Office Memorandum are required to be examined and because of such procedural formalities, the case of the petitioner for regularization, despite completion of 30 years of continuous services with scale of pay, could not be finalized till date.

10. The State of Nagaland has already framed a scheme for regularization and absorption of Work-Charged and Casual Employees by providing that all Work-Charged and Casual Employees of various departments who are enjoying scale of pay and who have completed 30 years or more continuous services would be regularized from time to time, subject to fulfillment of the conditions indicated therein. As the petitioner is found to have fulfilled the two main conditions, that is, 30 years or more continuous service as a Work-Charged employee and the grant of a scale of pay, the State respondents are obligated to consider the case of the petitioner for regularization in

terms of the scheme framed and notified by the Office Memorandum dated 17.03.2015 subject to fulfillment of the other conditions mentioned therein.

11. In the above obtaining fact situation, the instant writ petition is disposed of with a direction to the State respondents to consider the case of the petitioner in terms of the scheme framed for regularization and notified by the Office Memorandum dated 17.03.2015 and to bring the process to its logical conclusion as expeditiously as possible, but within the outer limit of 31.01.2025.

12. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant