



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

Case No. : WP(C)/272/2022

MR. HETO ZHIMOMI(ZHIMO)
AGED ABOUT 52 YEARS,
S/O GHONITO SEMA,
PRESENTLY RESIDING AT SIGNAL
ANGAMI, DIMAPUR

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE COMMISSIONER
AND SECRETARY/SECRETARY,
DEPARTMENT OF WORKS AND HOUSING,
GOVERNMENT OF NAGALAND, KOHIMA, NAGALAND

2:THE ENGINEER-IN-CHIEF

NAGALAND PUBLIC WORKS DEPARTMENT

GOVERNMENT OF NAGALAND
KOHIMA
NAGALAND

3:THE CHIEF ENGINEER

PWD(HOUSING) DIVISION

GOVERNMENT OF NAGALAND

KOHIMA
NAGALAN

Advocate for the Petitioner : A. ZHIMOMI

Advocate for the Respondent : GOVT ADV NL

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

27.06.2024

Heard Ms. Esther, learned counsel for the petitioner and Mr. Moa Imchen, learned Senior Government Advocate, Nagaland for all the respondents.

[2.] The facts of the case as projected by the petitioner has already been reflected in this Court's order dated 21.11.2022 and therefore, the same is being abstracted hereunder for brevity:-

“Heard Ms. Esther, learned counsel for the petitioner. The case of the petitioner in brief is that by order dated 15.01.1990 the petitioner was appointed as a Labourer on fixed pay of Rs. 450/- in the establishment of SDO, PWD, Store Division, Dimapur, Nagaland. After serving the department for about 11 (eleven) years, by order dated 22.12.200, the petitioner's post was upgraded to Khalasi and allowed scale of pay. Since his initial appointment he has been serving the department for the last 32 (thirty-two) years, and therefore, in terms of the Nagaland Retirement from Public Employment (Second Amendment) Act, 2009, the petitioner is due to retire after 35 (thirty-five) years of service. It is the case of the petitioner that the Nagaland Work-charged and Casual Employees Regulation Act, 2007 regulates the

service of work-charged employees. In terms of this Act, the OM dated 17.03.2015 has been issued framing the scheme for regularization of work-charged and casual employees. As per the scheme, work-charged employees receiving scale pay and continuously serving for 30 (thirty) years or more are eligible to be regularized in service, subject to the fulfillment of the conditions prescribed by the said Office Memorandum. The petitioner accordingly submitted the representation sometime in the month of August/September, 2022 seeking regularization of his service. However, the representation submitted by the petitioner is yet to be considered by the department. Being aggrieved, the petitioner is before this Court. Issue notice to the respondents, returnable after four weeks.

Since Mr. Moa Imchen, learned Senior Government Advocate appears on behalf of the State respondents no formal notice need be issued.

The learned counsel for the petitioner shall, however, serve requisite copies of the writ petition to the learned State counsel in the course of the day.

List it accordingly."

[3.] Against the claim of the petitioner, the respondents have filed their counter affidavit stating amongst others that in the proposal for regularization of work-charge employees 4th Phase and those who have completed 30 years of service as on 01.06.2021, the petitioner is placed at serial No. 14.

[4.] Mr. Moa Imchen, learned State counsel submits that since regularization is being conducted in a phase wise manner, the petitioner will have to wait for his turn. On the other hand, Ms. Esther, learned counsel for the petitioner submits that the petitioner has been waiting for a long time to get his service regularised. Further, the petitioner although given scale pay but the scale pay given to him is lesser than the minimum of scale pay against the post in which he is working. The learned counsel, therefore, submits that the petitioner should also be given the minimum of the scale pay like persons who are holding similar post and performing similar duties on regular basis in terms of the decision of the Apex Court rendered in *State of Punjab & Ors. vs. Jagjit Singh & Ors*, reported in (2017) 1 SCC 148.

[5.] When the matter was listed on 24.06.2024, Court had asked the learned State counsel to obtain instructions about the latest position of regularization of work-charge employees since the list appended to the counter affidavit dates back to 29.11.2022.

[6.] Mr. Moa Imchen, learned State Counsel, today, submits that in view of the ULB Election, he could not get concrete instructions in the matter. He, however, submits that it is an admitted position that the petitioner is at Serial No. 14 in the list for regularization work-charge employees and he will be considered for regularization in due

course.

[7.] The petitioner has annexed the scheme for regularization and absorption of work-charge and casual employees and Revision of Pay/Wages as notified vide O.M dated 17.03.2015 as Annexure-C to the writ petition. As per clause-1(ii) in respect of those work-charge and casual employees in scale pay who have completed or will complete 30 years of continuous service after 01.01.2015, their case for regularization is to be taken up in two batches as on 1st July and 1st January each of every year. Further, clause-2(i) of the O.M provides for Revision of Pay/Service work-charge employees. Having regard to the fact that the petitioner admittedly has served more than 30 years as work-charge employees and in the scale pay which however, according to the petitioner, is lesser than the scale pay enjoyed by the regular employees, the claim of the petitioner is squarely covered by the O.M dated 17.03.2015. It is also noticed as stated earlier that in the list drawn as on 29.11.2022, the petitioner is at Serial No. 14 amongst the work-charge employees listed for regularization.

[8.] Under the facts and circumstances, this Court finds no impediment in directing the respondent authorities to consider the case of the petitioner for regularization within a time frame.

[9.] Accordingly, the respondent authorities are directed to consider the case of the petitioner for regularization of his service in terms of the relevant scheme of the State Government within a period of 4 (four) months from the date of receipt of a certified copy of this order, having regard to the fact that he will be reaching his superannuation in the month of January 2025. Liberty is also granted to the petitioner to file appropriate representation to the respondent authorities concerned for grant of minimum pay scale against the post he has been working on work-charge basis. In the event of filing of such representation, the respondent authorities shall consider and dispose the same by way of a speaking order, within a period of 4 (four) months from the date of receipt of the representation.

[10.] With the above observation and direction, the Writ Petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant