



Serial No. 01

Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(WA) No. 39 of 2025 in
WA. No. 46 of 2024

Date of Decision: 13.06.2025

1. The State of Meghalaya
Represented by Chief Secretary to the Government of Meghalaya,
Shillong.
2. The Commissioner & Secretary to the Government of Meghalaya,
Finance (Pension Cell) Department,
Meghalaya, Shillong.
3. The Joint Secretary to the Government of Meghalaya,
Finance (Estt. & Pension Cell) Department,
Shillong.
4. Director of Accounts & Treasuries,
Government of Meghalaya, Shillong.
5. The Under Secretary to the Government of Meghalaya
Finance (Estt) Department, Meghalaya,
Shillong.

.....Applicants/Appellants

- Versus-

1. Shri. Moxadul Amin Mondal, 47 years,
S/o (L) Shri. Forezuddin Mondal, of Rajabala,
West Garo Hills District, Meghalaya.
2. Shri. Rakibul Islam, Aged 41 years,
S/o Md. Manik Miah, of Hallidayganj,
West Garo Hills District, Meghalaya.
3. Shri. Wesroy K. Sohtun, Aged 40 years,
S/o Shri. Klistarwell Sohtun of Mawryngkneng,
East Khasi Hills District, Meghalaya.
4. Smti. Damangbha Lynrah, Aged 39 years,



- D/o Shri. Plielad Rynjah, of Umpling, Dong Lumsurok, Shillong, East Khasi Hills District, Meghalaya.
5. Shri. Lambert Khongwang, Aged 42 years,
S/o Shri. Aurelius Pyrtuh, of Nongshilliang Nongthymmai,
Shillong, East Khasi Hills District, Meghalaya.
 6. Shri. Fivestar Lyngdoh Nongbsap, Aged 43 years,
S/o Shri. Shansingh Thawmuid of Mawripih,
PO- Sohiong, East Khasi Hills District, Meghalaya.
 7. Smti. Dakynshew Skhembil, Aged 43 years,
D/o (L) Shri. Atiar Chyne, of Saitsohpen, Sohra,
East Khasi Hills District, Meghalaya.
 8. Smti Restina Khongjoh, Aged 38 years,
D/o (L) Shri. Silong Kshiar, of Madanrting, Mawblei,
Shillong, East Khasi Hills District, Meghalaya.
 9. Smti. Bashaisngithiang Bakai, Aged 42 years,
D/o (L) Shri. N.S. Nongkynrih, of Mawlai Syllaikariah,
Shillong, East Khasi Hills District, Meghalaya.
 10. Smti. Shirley Naomi Wahlang, Aged 43 years,
D/o Shri Banlumlang Lister Rani, of Lumlyer,
Lower Mawprem, Shillong,
East Khasi Hills District, Meghalaya.
 11. Shri Bashngainlang Blah, Aged 43 years,
S/o (L) Shri Kelspar Dondor Nongrum, of Jaiaw Pdeng (Main Road),
Shillong, East Khasi Hills District,
Meghalaya
 12. Smti. Lashaihun War Thangkhiew, Aged 46 years,
D/o (L) Shri. Sainkumar War, of Lummawbah,
Upper Block-1, Shillong, East Khasi Hills District,
Meghalaya.
 13. Shri. Banker Kharbhih, Aged 45 years,
S/o Shri Land Singh Syiemlieh, of 4th Mile Upper Shillong,
East Khasi Hills District, Meghalaya.
 14. Shri. Leavaious Buhphang, Aged 37 years,
S/o Alfred Marbaniang, of Mairang-29,
Eastern West Khasi Hills District, Meghalaya.
 15. Smti. Juliet Rikynti Pyngrope, Aged 43 years,



D/o Shri. B.B. Lyngdoy, of Umpling Dong Lumsurok, Shillong East Khasi Hills District, Meghalaya.

16. Smti. Daniela Della Blah, Aged 40 years,
D/o Shri. George C. Nongbet, of Kenches Trace, Shillong
East Khasi Hills District, Meghalaya.
17. Shri. Mark Roger Blah, Aged 38 years,
S/o Shri. George C. Nongbet of Kenches Trace, Shillong,
East Khasi Hills District, Meghalaya.
18. Shri. Sandor David Sawian, Aged 39 years,
S/o Shri. Pherbah Nongkynrih, of Jaiaw Upper Sonalane,
Shillong, East Khasi Hills District, Meghalaya.
19. Shri. Sankupar Thongni, Aged 39 years,
S/o Shri. Hainwell Snaitang, of Mawlai, Motsyiar,
Shillong, East Khasi Hills District, Meghalaya.
20. Shri. Davis Lovell D. Marak, Aged 42 years,
S/o Shri. Walter M. Sangma of Lawmali, Shillong,
East Khasi Hills District, Meghalaya.
21. Shri Sujeeb Hajong, Aged 39 years,
S/o Shri Amiya Hajong, of Garobada, South West Garo Hills District,
Meghalaya.
22. Shri. Rajesh Saha, Aged 43 years,
S/o (L) Shri. Satyendra Saha, of Dobasipara,
West Garo Hills District, Meghalaya.

.....Opposite Parties/Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. N.D. Chullai, AAG with
Ms. S. Bhattacharjee, GA
Mr. E.R. Chyne, GA

For the Respondent(s) : Mr. V.G.K. Kynta, Sr. Adv. with
Ms. C. Nongkhaw, Adv.

i) Whether approved for reporting in Yes/No



Law journals etc.:

ii)	Whether approved for publication in press:	Yes/No
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Per W. Diengdoh, J:

ORDER (ORAL)

1. A single bench of this Court has taken up a writ petition being WP(C) No. 244 of 2022 and after hearing the parties, had vide judgment and order dated 05.04.2024 allowed the prayer made by the petitioners therein.

2. The State of Meghalaya, being the respondent in the said case, being aggrieved and dissatisfied with the said order dated 05.04.2024, has filed an intra-court appeal which is being taken up by this Court sitting as a division bench. The appeal is listed as WA. No. 46 of 2024.

3. In the midst of the proceedings in this appeal, the State/appellant has preferred a Misc. Application being MC(WA) No. 39 of 2025 with a prayer to allow the State/applicant to rectify and correct the contents of a particular document being the Order of regularization of appointment letter vide Memo No. FEG.62/2007/Pt.III/11 dated 19.02.2021 (Annexure-1) issued by the Under Secretary to the Govt. of Meghalaya, Finance (Estt.) Department. This document refers to the regularisation of Junior Divisional Accountants appointed under Rule 3(f) of the Meghalaya Public Service Commission



(Limitation of Functions), 1972, by which the services of the writ petitioners/respondents herein was regularised.

4. Mr. N.D. Chullai, learned AAG assisted by Ms. S. Bhattacharjee and Mr. E.R. Chyne, learned GA, while moving this application has submitted that as far as the case for regularisation is concerned, there was issued a communication No. PER(AR)76/99/Pt.V/297 dated 27.08.2007, wherein heads of various departments of the State Government were informed of the approval of the Government for regularisation of named Adhoc appointees under their respective departments. The regularisation comes with certain conditions stated in the said communication.

5. In subsequent matters relating to regularisation, the case of the writ petitioners/respondents in particular, were also directed to be regularised vide the said communication dated 19.02.2021(supra). The learned AAG has however pointed out that in the body of the said communication dated 19.02.2021, the regularisation was made subject to the conditions as was found in the said communication dated 27.08.2007(supra).

6. The learned AAG has also submitted that the inclusion of the conditions of the said 27.08.2007 communication in communication dated 19.02.2021, is apparently a mistake on the part of the concerned authority, since the former was based on the strength of the approval of the



Government, while the latter was done so only on the directive issued by the Meghalaya Public Service Commission.

7. Under such circumstance, the learned AAG has submitted that prayer is made herein to allow the applicant/appellant/State to rectify the said order dated 19.02.2021(supra) which the State is empowered to according to the provision of Section 21 of the General Clauses Act. This power could not be resorted to due to the pendency of the related appeal between the parties concerned before this Court.

8. To support his contention, the learned AAG has cited the case of Rasid Javed & Ors v. State of Uttar Pradesh & Anr, (2010) 7 SCC 781, para 54, 55 & 56 as well as the case of Shree Sindhali Steels Limited & Ors v. State of Uttar Pradesh & Ors, (2011) 3 SCC 193, para 38 & 41 and the case of Smti. Aplyne Mary Sunn & Ors v. State of Meghalaya & Ors passed by a learned Single Judge of this Court vide common order dated 13.09.2019 in WP(C) No. 364 of 2017 along with WP(C) No. 365 of 2017, WP(C) No. 366 of 2017, WP(C) No. 367 of 2017, WP(C) No. 368 of 2017, WP(C) No. 369 of 2017 and WP(C) No. 370 of 2017.

9. In reply, Mr. V.G.K. Kynta, learned Sr. counsel assisted by Ms. C. Nongkhlaw, learned counsel for the respondents, responding to the plea of the applicant/writ appellant has submitted that this Misc. Application has



been preferred on an absolutely misconceived notion, unknown to law and utterly unauthorised. The learned Sr. counsel has also submitted that firstly, the General Clauses Act, 1897 has no applicability in the instant case, vis-à-vis, the power of the State sought to be exercised under such Act.

10. Even, if assuming, but not admitting that the right to rectify or correct the said order dated 19.02.2021(supra), the same is not dependent or subject to grant of leave by any judicial court.

11. Again, the learned Sr. counsel has submitted that a perusal of the said order dated 19.02.2021, would show that on the face of it, it conveys “the approval of the State Government meaning the approval of the Cabinet of Ministers of the State Government in terms of the mandate of the relevant Rules of Executive Business of the Government of Meghalaya, and as such, even, if the same is allowed to be corrected or rectified or withdrawn, it would need the approval of the State Cabinet in the form of a policy decision. In this regard, it is seen that in preferring this Misc. Case before this Court, the same was affirmed vide an affidavit of the Joint Secretary to the Government of Meghalaya, Finance, Pension (Cell) Department. Nothing in the affidavit is shown as to whether the deponent was authorised by the State Cabinet to make such a prayer before this Court, and as such, on this ground too, this application is required to be dismissed.



12. The learned Sr. counsel has further submitted that by virtue of the said regulation order dated 19.02.2021 which was issued based on the Cabinet decision dated 10.01.2013, the validity of the same being confirmed by the Hon'ble Writ Court vide its judgment dated 05.04.2024 passed in WP(C) No. 244 of 2022 which was carried on appeal by the applicant/writ appellant/State before this Court in related appeal being WA. No. 46 of 2024, the matter being sub-judice, therefore, alteration or correction of the same at this stage of the appellate proceedings, cannot be allowed.

13. The preference of the applicant/State of this Misc. Case and the prayer made therein is nothing, but an abuse of the process of law and judicial order of this Court aimed at nullifying the effect of a judicial order duly passed by sheer executive fiat, and accordingly, it is prayed that this application may be dismissed as devoid of merits.

14. This Court has carefully considered the application herein, and from the pleadings of the parties, is made to understand that the State Government at the relevant point of time, has issued the said communication dated 19.02.2021(supra), wherein in accordance with the terms and conditions laid down therein, the services of the opposite parties/respondents was regularised, and they have continued in such service till date with all consequential financial benefits and the like.



15. However, the State Government in the relevant department has interpreted the contents of the said order of regularisation to say that the opposite parties/respondents are governed by the New Pension Scheme, which direction was opposed by the opposite parties/respondents, who have approached this Court to maintain that their services stands governed by the Old Pension Scheme with reference to their date of initial appointment. Reference to this effect is found in the body of the said order of regularisation which was inserted therein as a condition precedent to the said regularisation, notably that the period of 3(f) appointment/adhoc appointment of each incumbent would be taken into consideration for the purpose of leave, pay, increment, pension, etc., as per existing provision provided under FR 28(a) as was conveyed vide related communication dated 27.08.2007.

16. Therefore, the controversy centres round the said regularisation order dated 19.02.2021, clarification of which was found in the impugned judgment passed by the writ court and again, the appeal being preferred to decide the objection raised by the applicant/writ appellant/State. In this regard, it can only be said that the prayer of the applicant in this instant application, if allowed, would in effect render the cause of action in the writ as well as the appellate forum redundant, and the result may very well affect the case of the opposite parties/respondents without giving them any opportunity to be heard in the related appeal.



17. It is also to be noted that the provision of Section 21 of the General Clauses Act, 1897 grants the authority that has originally issued a notification or order or rule the power to recall the same for correction or to even rescind, which power is inherent in the authority's original power to issue the same. The court therefore has no role to play in the exercise of such power and cannot allow or disallow any intention by such authority in this regard. However, if such order, rule or notification is the subject matter or litigation before the court, it becomes sub-judice and as such, the court cannot allow the authority concerned to amend, vary or rescind the same.

18. This being the case, being in agreement with the contention of the learned Sr. counsel for the opposite parties/respondents, we find that no case has been made out by the applicant to allow the prayer for rectification and correction of the order of regularisation dated 19.02.2021.

19. This application is rejected accordingly.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge