

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra-Ordinary Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

WP (C) No. 12 of 2025

MR. BIKASH PRADHAN,
S/o Shri Dhan Bdr. Pradhan,
R/o Melli Dara, Namchi District,
Sikkim - 737128.

... Petitioner

versus

- 1. **State of Sikkim,**
Represented through the Chief Secretary,
Government of Sikkim,
Tashiling Secretariat,
Gangtok, Sikkim - 737101.

- 2. **Department of Personnel,
Administrative Reforms, Training & Public Grievances.**
Government of Sikkim,
Represented through its Secretary,
Tashiling Secretariat,
Gangtok, Sikkim - 737101.

- 3. **Secretary,**
The Public Health Engineering Department,
Government of Sikkim,
Tashiling Secretariat,
Gangtok, Sikkim - 737101.

... Respondents

Appearance:

Mrs. (Dr.) Doma T. Bhutia, Senior Advocate with Ms. Nima Phuti Lepcha, Advocate for the Petitioner.

Mr. Zangpo Sherpa, Additional Advocate General with Ms. Pema Bhutia, Assistant Government Advocate and Mr. Mohan Sharma, Advocate for the Respondent(s).

Date of Hearing : 17.06.2026
Date of Judgment : 17.06.2026
Date on which uploaded : 18.06.2026

J U D G M E N T (ORAL)

(A. Muhamed Mustaque, C.J.)

The Writ Petitioner was engaged as a Plant Operator under the Public Health Engineering Department, Government of Sikkim, on 12.04.2016. He continued to serve in the said capacity until 28.02.2024. On 28.02.2024, his services were terminated on the ground that the Department no longer required his services.

2. Ordinarily, this Court would not entertain a claim for regularization. However, in the present case, the Government, by Notification dated 06.02.2020, introduced a scheme for regularization of temporary employees serving continuously under the State Government on Work-Charged, Muster Roll, Ad hoc and Consolidated Pay establishments belonging to Group 'C' and Group 'D' categories, provided such employees had rendered eight (08) years of continuous service in their respective Departments.

3. Subsequently, by Notification dated 09.02.2024, the Government modified the earlier scheme and reduced the eligibility criterion from eight years to four years of continuous service. As on 09.02.2024, the Petitioner had completed more than seven years of continuous service. Consequently, he became eligible for consideration for regularization under the Notification dated 06.02.2020 as modified by Notification dated 09.02.2024.

4. Once a right accrued in favour of the Petitioner to be considered for regularization under the applicable Government Notifications, the Department could not have terminated his services without first considering his case for regularization. The impugned order, therefore, had the effect of depriving the

WP (C) No. 12 of 2025
(Bikash Pradhan vs. State of Sikkim & Ors.)

Petitioner of his accrued right to be considered for regularization. In such circumstances, this Court is of the considered view that the impugned order of termination cannot be sustained and deserves to be set aside.

5. Having arrived at the above conclusion, the next question is whether the Petitioner is entitled to regularization as a matter of right. Learned Senior Counsel appearing for the Petitioner, relying upon the decisions in **Jaggo v. Union of India and Others¹**, and **Sukhendu Bhattacharjee and Others v. State of Assam and Others²**, contended that the Petitioner is entitled to regularization since other similarly situated employees have already been regularized and the Petitioner has been singled out for hostile discrimination.

6. The submission is undoubtedly attractive, for the law mandates equal treatment of similarly situated persons. However, in the present case, the Department has not yet examined the Petitioner's claim for regularization in terms of the applicable Notifications. In the absence of such consideration by the competent authority, it would be premature for this Court to adjudicate upon the Petitioner's claim for regularization on merits. The primary authority must first consider and decide the Petitioner's entitlement in accordance with law.

7. Since the Petitioner is presently out of service, it is necessary that his claim for regularization be considered expeditiously. Accordingly, the following directions are issued:

- (i) The impugned order dated 28.02.2024 terminating the service of the Petitioner is set aside.

¹ 2024 SCC Online SC 3826.

² 2026 SCC Online SC 909.

*WP (C) No. 12 of 2025
(Bikash Pradhan vs. State of Sikkim & Ors.)*

- (ii) The competent authority in the concerned Department shall consider the Petitioner's claim for regularization in terms of the Government Notification dated 09.02.2024 and pass a reasoned order thereon within a period of four (04) weeks from the date of receipt of a copy of this judgment.
- (iii) In the event the Petitioner is found eligible and entitled to regularization, he shall be reinstated forthwith. The competent authority shall also consider whether petitioner is entitled to any monetary benefits, including arrears of salary and other admissible benefits, to which the Petitioner may be entitled from the date on which he became eligible for regularization, in accordance with law.
8. Accordingly, the ***Writ Petition (C) No. 12 of 2025*** stands disposed of as above.

Chief Justice

ak/arc

Approved for Reporting : Yes/~~No~~