



Serial No. 46
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 460 of 2024

Date of Decision: 09.06.2026

Shri Edmund Charlesterwell Nongrum,
S/o (L) P.S. Swer,
R/o Lawsohtun, Block-2,
P.O. & P.S. Laban,
East Khasi Hills District, Shillong-793004,
Meghalaya

.... Petitioner(s)

Versus

1. State of Meghalaya represented by
Chief Secretary Government of Meghalaya
2. The Secretary & Commissioner,
Health & Family Welfare Department,
Shillong, Meghalaya
3. The Under Secretary to the Govt. of Meghalaya,
Health and Family Welfare Department.
4. The Director of Health Services (MI),
Health Complex, Red Hills,
Laitumkhrah, Shillong-793003.
5. The Under Secretary to the Govt. of Meghalaya,
Personnel & Admn. Reforms (B) Department,
Shillong-793001.

.... Respondent(s)



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Ms. R. Kharshiing, Adv. with
Ms. F. Langbnang, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. E.R. Chnye, GA
Ms. Z.E Nongkynrih, GA

- | | | |
|-----|--|--------|
| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
-

JUDGMENT AND ORDER (ORAL)

1. The petitioner is before this Court with a prayer for regularization of the services with effect from his initial date of appointment as LDA since 03.04.1998, and to include him under the Old Pension Scheme, on the ground that the same benefit has been allowed to other similarly situated persons who have been regularized at a much later date but appointed as adhoc/temporary before 31.12. 2007.

2. The brief facts are that the petitioner, was appointed as LDA on 03.04.1998 and continued in service on being extended till



19.12.2003, and despite no formal regularization, continued to work and received pay equivalent to regular employees. Though he was subsequently allowed to officiate as LDA, vide an office order dated 30.04.2010, the question of his regularization remained. The petitioner then filed a writ petition being WP(C) No. 26 of 2013, wherein this Court by order dated 05.05.2014, directed the respondents to consider the representation of the petitioner sympathetically in view of his 15 years of continuous service. The services of the petitioner were then regularized with effect from 01.07.2015, which however, rendered him ineligible to be put under the Old Pension Scheme, on account of the new Pension Scheme being implemented from 01.04.2010. The petitioner thereafter, pursued his case and though there was no positive indication from the respondents as to any change in the retrospectivity of regularization, submitted fresh representations upon learning that by a Cabinet decision of October, 2022, benefit under the Old Pension Scheme had been extended to all regularized adhoc employees who entered service before 31.12.2007. However, to the petitioner's representation, the respondents by letter dated 06.03.2024, reiterated the Department's decision of the date of regularization on the ground that it was in compliance with the Court's order dated 05.05.2014.



3. It has been argued by Ms. R. Kharshiing, the learned counsel for the petitioner that firstly, his regularization should have occurred as early as 2006, but was delayed due to the failure of the respondent No. 4, to comply with the requirements from the Government, which on earlier dates i.e. by communications dated 11.12.2006, and 03.04.2009, had already favourably considered the case of the petitioner for regularization. Reliance has also been placed on Rule-10 of *The Meghalaya Civil Services (Pension) Rules, 1993* that provides that the qualifying service be calculated from the date of first appointment (including temporary or officiating capacities) and on the Office Memorandum dated 21.12.2022, that regularized 3635 adhoc employees who were placed under the Old Pension Scheme, which she submits should equally apply to the petitioner.

4. It is then contended that the petitioner cannot be forced into the New Pension Scheme, as the delay has been caused by the respondents and further the Old Pension Scheme having been granted to 3635 similarly situated adhoc employees, this benefit cannot be withheld from the petitioner, inasmuch as, his appointment was before the cut-off date i.e. 31.12.2007. Learned counsel therefore, prays that the petitioner be allowed the benefit of being placed under the Old Pension Scheme,



and in support of her submissions, has relied upon the following decisions: -

- i) Aplyne Mary Sunn vs. State of Meghalaya 2019 SCC OnLine Megh 247*
- ii) Rupak Chandra Kalita vs. State of Assam Rep. by the Secretary & Ors. 2025 SCC OnLine Gau 603*

5. Mr. N.D. Chullai, learned AAG assisted by Ms. Z.E. Nongkynrih, learned GA for the respondents in reply has submitted that the regularization of the petitioner was not an automatic right, but was done in compliance with the High Court judgment dated 05.05.2014, which directed for the consideration of the petitioner's case on sympathetic and humanitarian grounds. The learned AAG has submitted that the New Pension Scheme was already in force, both at the time of the passing of the High Court's judgment, and at the time of the petitioner's regularization in 2015 and as such the petitioner is squarely covered under the New Pension Scheme, which came into force on 01.04.2010. In this context, the learned AAG has referred to Clause-2 and 3.1 of the Guidelines for implementation, of the NPS to show that the Scheme was to made applicable to all new entrants who joined State Government service on a regular basis against sanctioned vacant posts on or after 01.04.2010, and that the same would also be applicable to all Government employees whose services were/will be regularized against



regular posts on or after 01.04.2010. As such he contends, the petitioner being regularized after 01.04.2010, is not entitled to the Old Pension Scheme. It has also been submitted that the petitioner can no longer claim any retrospective right, inasmuch as, the claim for regularization from the date of initial appointment had already been made in the earlier writ petition. Further he submits, the Cabinet decision of 2022, was confined only to 3635 employees, which however were subject to four specific conditions which also included special examinations, whereas the petitioner, was regularized without such conditions, but solely on the basis of the 2014 Court's order. The claim of the petitioner that staff regularized after him were placed in the Old Pension Scheme, he submits, is but a bald statement as no materials has been placed on record to substantiate this fact. With regard to the contention that the petitioner's regularization should have been effected as far back as in 2006, the learned AAG submits that the said communications referred to by the petitioner, was concerned only with the filling up of vacant LDA posts through direct recruitment and promotion, and any proposal made at that point of time has no bearing in the present case. The learned AAG has relied upon the following decision in support of his case.

- i) Govt. of NCT of Delhi & Ors. vs. Dr. H.C. Gupta WP(C) Case No. 4705/2018*



6. Heard the learned counsel for the parties, the only issue it appears is whether in the circumstances surrounding the case, there can be any scope or ground to consider the services of the petitioner served on an adhoc basis, to be counted for the purposes of coverage under the Old Pension Scheme.

7. As noted above, the petitioner had approached this Court on an earlier occasion, whereby this Court by order dated 05.05.2014 passed in WP(C) No. 26 of 2013, had directed for consideration of the petitioner's case for regularization. In view of this direction, the petitioner's services were regularized w.e.f 01.07.2015. This Court to in order to verify the contents of the earlier writ petition i.e. the pleadings, prayer and other materials, as opposed to the instant fresh writ petition, had called for the records of WP(C) No. 26 of 2013, which were accordingly produced before the Court. On examination of the prayer made therein, it is noted that at caption No. (i), it has been prayed as follows: -

“(i) Regularization of the service of the Petitioner with retrospective effect from the date of his initial appointment on 03.04.1998 with all the consequential benefits viz arrear salary with time to time increment- fixation of pay and allowances seniority and promotion as due and admissible alongwith benefit of General Provident Funder under Rule 4 of the Meghalaya Civil Service (General Provident Fund) Rules, 1985;”



8. This Court on perusing the order dated 05.05.2014 passed in WP(C) No. 26 of 2013, notes that the same is not exhaustive, and the directions for consideration of regularization are general in nature. However, the fact that the prayer for retrospective regularization and for all consequential benefits from the date of initial appointment had been made in the earlier round of litigation, also cannot be easily disregarded. Coming to the present writ petition, at caption No. 4, the prayer is as follows: -

“4 And/or direct the respondent authorities to regularize the petitioner’s service with retrospective effect from his initial date of appointment, i.e. 03/04/1998, thereby enabling him to avail of pensionary benefits under the Old Pension Scheme, in alignment with the treatment accorded to other similarly situated staff.”

A comparison of the above captioned prayers made in the two writ petitions however, show that in present writ petition, the same is specific to praying for consideration for retrospective regularization from the initial date of appointment, to enable him to avail of pensionary benefits under the Old Pension Scheme. Thus, it cannot be held that identical prayers have been re-agitated on this aspect.

9. The petitioner in the other parts of the prayer, apart from the prayer for regularization from the date of initial appointment for the purposes of pension, has also prayed for other service benefits on the



basis of new grounds i.e. the Office Memorandum of 2022, which had accorded regularization to 3635, employees appointed before 31.12.2007, and also Clause-10 of *The Meghalaya Civil Services (Pension) Rules, 1993*, which provides for the counting of officiating or temporary service, towards qualifying service for such service benefits.

10. On the other prayers, i.e. the claim for parity with other adhoc employees who were regularized vide the Memorandum dated 21.12.2022, the prayer of the writ petitioner on this ground is not sustainable, inasmuch as, the said regularization exercise implemented through the Memorandum of 2022, was a special one-time exercise with regard to only 3635 employees and not a universal policy, which would include the petitioner, whereas, the petitioner's regularization was by way of, and pursuant to orders of the Court. As such, the case of the petitioner standing on a completely different footing, there is no similarity with other adhoc employees regularized by the Cabinet decision in 2022.

11. The New Pension Scheme as has been noted came into effect on 01.04.2010, and under Guideline 3.1 of the Guidelines, the same being prospective, would normally also cover the case of the petitioner who was regularized w.e.f. 01.07.2015. However, on the other hand a perusal of Clause-10 of *The Meghalaya Civil Services (Pension) Rules*,



1993 would show that qualifying service of a Government servant, shall commence from the date he takes charge of the post. For the sake of convenience Clause-10 is reproduced hereinbelow: -

“Commencement of qualifying service:

10. Subject to the provisions of these rules qualifying service of a government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity.

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post.

Provided further that:

(a) In the case of a Government servant in a Class IV service or post who held a lien or a suspended lien on a permanent pensionable post prior to the 17th April 1950, service rendered before attaining the age of sixteen years shall not count for any purpose, and

(b) In the case of a Government servant not covered by clause (a) service rendered before attaining the age of eighteen years shall not count, except for compensation gratuity.”

12. On examination of the above, an aspect with regard to the service of the petitioner which this Court notices, is that the petitioner was already in employment *albeit*, on adhoc basis, since 03.04.1998, that is much before the New Pension Scheme came into being on 01.04.2010. Taking into consideration the fact that the petitioner has also been undisputedly in continuous service since that date, but however,



regularized only on 01.07.2015, by application of Clause-10 of the Guidelines, notwithstanding other circumstances, this would surely entitle him, for placement under the Old Pension Scheme.

13. It is thus ordered accordingly, it is further made clear that this relief granted, is confined only to the counting of the period under adhoc employment for determining the qualifying years of service for the purposes of pension, and not for any other service benefits, emoluments, or back wages, inasmuch as, these are no longer open for the petitioner to re-agitate.

14. The judgment placed by the learned AAG i.e. ***Government of NCT of Delhi & Ors. vs. Dr. H.C. Gupta*** (supra) being of no assistance to the respondents and on a different footing is not elaborated upon.

15. The writ petition is allowed to the extent indicated above, and is accordingly disposed of.

JUDGE

Meghalaya
09.06.2026
"V. Lyndem-AR-PS"