*Item No.28 & 31*

**IN THE HIGH COURT OF MANIPUR**
**AT IMPHAL**

**W.P(C) No. 822 of 2018**

1. Y. Kumar Singh aged about 36 years old, S/o Y. Aka Singh, resident of Thoubal Kiyam Siphai, P.O. & P.S. Thoubal, Manipur – 795138.
2. L. Jayantakumar Singh aged about 48 years old, S/o (L) L. Ningthou Singh, resident of Yairipok, (Project Officer (IREP), Manipur -795149.
3. H. Bimolchandra Singh aged about 44 years old, S/o (L) H. Ibohal Singh, resident of YairipokKhoirom, P.O. & P.S. Yairipok, Manipur – 795149.

**…….Petitioners**

**-Versus-**

1. The State of Manipur through the Commissioner (Science & Technology), Government of Manipur, Old Secretariat (South Block), Babupara, P.O. & P.S. Imphal, Manipur – 795001.
2. The Director, Science & Technology, Manipur, Department of Science & Technology Complex, Old Lambulane, P.O. & P.S. Imphal, Manipur – 795001.

**…..Respondents**

3. Shri. M. Chandrakumar, aged about 31 years, S/o M. Nabakumar, resident of Naoremthong Takhellambam Leikai, P.O. Imphal, P.S. Lamphel, Imphal West District. Pin No. 795001.
4. K. Yarreingam Rangry, aged about 31 years, S/o K.C. Rangry, resident of Hoomi Village, P.O. & P.S. Somdal, Ukhrul District. Pin No. 795142.
5. Shri. W. Nelson Singh, aged about 33 years, S/o W. Dhananjoy Singh, resident of Lilong Chajing Konjeng Leikai, P.O. Lilong, P.S. Singjamei, Imphal West District. Pin No. 795130.

**…… Private respondents**

**with**
**W.P(C) No. 487 of 2018**

1. L. Jayantakumar Singh aged about 48 years old, S/o (L) L. Ningthou Singh, resident of Yairipok, (Project Officer (IREP), Manipur - 795149.
2. H. Bimolchand Singh aged about 44 years old, S/o (L) H. Ibohal Singh, resident of Yairipok Khoirom, P.O. & P.S. Yairipok, Manipur – 795149.
3. Y. Kumar Singh aged about 36 years old, S/o Y. Aka Singh, resident of Thoubal KiyamSiphai. P.O. & P.S. Thoubal, Manipur – 795138.

**…....Petitioners**

**-Versus-**

1. The State of Manipur through the Commissioner (Science & Technology), Government of Manipur, Old Secretariat (South Block), Babupara, P.O. & P.S. Imphal, Manipur – 795001.
2. The Commissioner (RD & PR), Government of Manipur, New Secretariat (North Block), Babupara, P.O. & P.S. Imphal, Manipur – 795001.
3. The Manipur Renewable Energy Development Agency (MANIREDA), represented by its Member Secretary, MANIREDA, Manipur having its office at Social Welfare Office Complex, near the Secured Office Complex, Imphal-Dimapur Road, P.O. Imphal & P.S. Lamphel, Manipur – 795001.
4. The Director, MANIREDA, 2nd Floor, South Block, Secured Office Complex, Near 2ndM.R. Gate, Imphal-Dimapur Road, Imphal, P.O. Imphal & P.S. Lamphel, Manipur – 795001.

5. The Director, Science & Technology, Manipur, Department of Science & Technology Complex, Old Lambulane, P.O. & P.S. Imphal, Manipur – 795001.

**.....Respondents**

BEFORE
**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR**

For the Petitioner :: Mr. N. Jotendro, Sr. Advocate.
For the Respondetns :: Mr. Lenin Hijam, Addl. A.G.,
Mr. RS. Reisang, Sr. Advocate&
Mr. A. Mohendro, Advocate.
Date of Judgment & Order :: 22.01.2020

## JUDGMENT & ORDER
***(Oral)***

**[1]** The facts and reliefs sought being identical and the parties being same, both the writ petitions are being disposed of by this common judgment and order.

**[2]** WP(C) No. 487 of 2018 has been filed with the following prayers:

> *"In the aforesaid facts and circumstances, it respectfully prayed that your Lordships be pleased to;*
>
> *i) Issue rule and call for the relevant records;*
>
> *ii) Writ in the nature of certiorari or mandamus or any other appropriate writ of the like nature compelling the respondents for quashing and setting aside the impugned order dated 29.03.2018 issued by the Director, MANIREDA, Imphal Manipur along with order dated 21.04.2018 issued by the*

*Secretary (Science & Technology), Government of Manipur as illegal, malafide and arbitrary in nature as the same are not in conformity with the judgment and order dated 21.02.2018 passed writ appeal No. 39 of 2013 arising out of the WP(C) No. 266 of 2012 and also Judgment and order dated 22.01.2001 passed in WP(C) No. 1135 of 1999 coupled with a prayer to direct the respondents to absorb/ regularize the services of the petitioners like other similarly situated persons and also further direct to release the entitled back wages of the petitioners w.e.f. 01.01.2004 to till date within certain stipulated period;*

*iii) Direct the respondents to absorb/ regularize the petitioners to any other line department wherever suitable to their respective posts coupled with a prayer to re-consider and dispose of the representations dated 04.09.2010 preferred before the Commissioner, Science & Technology, Government of Manipur;*

*iv) In the interim, direct the respondents particularly respondent Nos. 1 & 3 to release the entitled pay and allowances of the petitioners w.e.f. 1st January, 2004 to till date within a stipulated period."*

WP(C) No. 822 of 2018 has been filed with the following prayers:

*"In the aforesaid facts and circumstances, it respectfully prayed that your Lordships be pleased to:*

*i) issue rule and call for the relevant records;*

*ii) writ in the nature of certiorari or mandamus or any other appropriate writ in the nature of certiorari or mandamus or any other appropriate writ of the like nature compelling the respondents for quashing and setting aside the impugned advertisement No. 3/34/2018/(App) DST dated 16/8/2018 issued by the Director, (S & T), Imphal Manipur as illegal, malafide and arbitrary in nature coupled with a prayer to direct the respondents to absorb/ regularize the services of the petitioners like other similarly situated persons to the post of Technical Assistant and LDC respectively within certain stipulated period and also further prayed to reserve 2 (two) posts of Technical Assistants and 1 (one) post of LDC in the Science & Technology Department, Manipur pending final disposal of the instant writ petition;*

*iii) direct the respondents to absorb/ regularize the petitioners to the available vacant posts of Technical Assistants and 1 (one) post of LDC in the Science & Technology Department, Manipur."*

**[3]** On the recommendation of the Selection Committee, the petitioner No. 2 was selected for appointment to the post of Project Officer along with 6 (six) others under the Block Level Integrated Rural Energy Programme (IREP) in the Directorate of Science, Technology & Environment, Government of Manipur by Notice dated

01.10.1993. The petitioner Nos. 1 & 3 were also selected for engagement as Project Officer and LDC respectively on contract basis for a period upto 31.03.1997 under the IREP Programme of the Directorate of Science, Technology & Environment, Government of Manipur by Notice dated 04.10.1996.

Thereafter, by Order dated 02.06.1999 issued by the Secretary (S & T), Government of Manipur, all schemes under the Non-conventional Energy Sources and IREP implemented by the Department of Science and Technology, Manipur were transferred to the newly established "Manipur Renewable Energy Development Agency (MANIREDA) along with the existing concerned staff of the National Programme of Biogas Development (NPBD), State Level and Block Level IREP cell with effect from 01.06.1999. In the said Order dated 02.06.1999 at paragraph – 2 therein, it is directed that the services of the NPED and IREP staff should be protected their services in the newly established MANIREDA and they should not be put to their disadvantages.

**[4]** The petitioners through their Association namely, "All Manipur Block Level IREPE mployees" Association filed WP(C) No. 1135 of 1999 before the Gauhati High Court praying for absorption/ regularization of their respective services and the Gauhati High Court by judgment and order dated 22.01.2001 disposed of WP(C) No. 1135 of 1999 directing the State respondents specially, the respondent No. 6 therein to implement the said Order dated 02.06.1999 within a period of 6 (six) weeks' from the date of receipt of the order.

The IREP including the petitioners and National Biogas and Manure Management Project (NBMMP) were again transferred from MANIREDA to the Department of Science and Technology by an Order dated 03.06.2005 with immediate effect.

**[5]** The petitioners thereafter by separate representations all dated 04.09.2010, made representations to the Commissioner (Science & Technology), Government of Manipur requesting for absorption of the services of the petitioners to their respective post or any suitable post. As the representations made by the petitioners were not considered on time, they filed another writ petition being WP(C) No. 719 of 2010 before the Gauhati High Court which was disposed of by Order dated 11.11.2010 directing the Commissioner to consider and dispose of the representations dated 04.09.2010 made by the petitioners according to merit, keeping in view of the services rendered by the petitioners in the Science and Technology Department, Government of Manipur for a number of years ranging from 15 to 20 years on contract basis.

Accordingly, the Commissioner (S & T), Government of Manipur issued an Order dated 10.01.2011 stating that the IREP is a Centrally Sponsored Scheme governed by its guideline and its contract engagement done by the department of Sc. & Tech and

MANIREDA not being the appointing authority, there is no provision to absorb or engage the petitioners in MANIREDA. The order further states that there is no fund or scope to absorb or engage as much as 57 (Fifty seven) more staff including the petitioners for a

scheme that was discontinued by the Ministry w.e.f. 2007 – 08 and no more implemented by MANIREDA.

**[6]** Being aggrieved the petitioners again filed WP(C) No. 266 of 2012 before this Court which was disposed of by judgment and order dated 02.09.2015 directing the respondents to consider the case of the petitioners for absorption/ regularization by enacting appropriate regulation/ scheme within a period of 3 (three) months from the date of receipt of a copy of the said order.

The State respondents preferred an appeal which was registered as Writ Appeal No. 39 of 2015 before the Division Bench of this Court against the judgment and order dated 02.09.2015 passed in WP(C) No. 266 of 2010. The said writ appeal was disposed of by an order dated 21.02.2018 observing that when the learned Single Judge has directed for considering the case of the petitioners, he has not foreclosed any course of action by the respondent authorities, relating the claim of absorption/ regularization for the petitioners. Since the direction was to consider the case of the petitioners for regularization and not a direction for regularization and since no absolute direction has been given by the learned Single Judge, the Division Bench did not feel the need of any interference and the appeal was dismissed.

**[7]** Thereafter, the Director, MANIREDA issued an order dated 29.03.2018 stating that the agency/ society has perused the record of the case of the petitioners and considered the same and there is no ground for absorption/ regularization. The Secretary (Sc. & Tech.), Government of Manipur issued another order dated

21.04.2018 stating that the Government has minutely examined and considered the case of the petitioners by taking into account the present situation of the IREP Scheme with the observation that there is no scope or fund for absorption or regularization of the petitioners.

**[8]** The Department of Science & Technology thereafter, issued a notification dated 16.08.2018 inviting applications for recruitment of various posts on temporary basis in the Directorate of Science & Technology, Government of Manipur which included 3 (three) posts of Technical Assistant and 3 (three) posts of LDC's.

The order dated 29.03.2018 issued by the Director, MANIREDA and the Order dated 21.04.2018 issued by the Secretary (Sc. & Tech.), Government of Manipur and the Notification dated 16.08.2018 in so far as it concerns the post of Technical Assistants and LDC'sare impugned in both the writ petitions. This Court by an Order dated 11.09.2018 in WP(C) No. 822 of 2018 directed that no appointment order shall be issued in respect of the Technical Assistant and LDC without the leave of this Court.

**[9]** Heard Mr. N. Jotendro, learned senior counsel assisted by Mr. Murtaza Ahmed, learned counsel appearing for the petitioners in both the writ petitions. Also heard Mr. Lenin Hijam, learned Addl. A.G. for the State respondents, Mr. RS. Reisang, learned senior counsel for the private respondent Nos. 3, 4 & 5 and Mr. A. Mohendro, learned counsel for the MANIREDA in both the writ petitions

**[10]** Mr. N. Jotendro, learned senior counsel appearing for the petitioners in both the writ petitions, submits that when the IREP implemented by the Department of Science & Technology, Manipur was transferred to the newly established MANIREDA by the Order dated 02.06.1999, a protection was given at paragraph – 2 of the said order which provided that the services of the NPED and IREP staff should be protected and their services in the newly established MANIREDA should not be put to their disadvantages. He, therefore, submits that in view of the protection provided in the Order dated 02.06.1999, it was incumbent on the part of the respondents to consider absorption of the petitioners into their respective post or any equivalent post in any of the Departments in line with the MANIREDA to ensure that the petitioners are not put to their disadvantages. Learned senior counsel for the petitioner strenuously argued that similarly situated persons have been absorbed/ regularized by the respondents and has particularly drawn the attention of this Court to the order dated 19.12.2016 issued by the Department of Science & Technology at page – 139 of WP(C) No. 822 of 2018 wherein one,

Shri T.D. Kom was regularized against the temporary post of Curator in the Manipur Science Centre under the Science & Technology Department, Manipur on the basis of Cabinet decision taken on 21.11.2016. He submits that the said Shri T.D. Kom was also selected for engagement on contract basis under the IREP programme of the Directorate of Science, Technology & Environment by the Notice dated 04.10.1996 by which the petitioner Nos. 1 & 3 were also

selected. He, therefore, submits that the petitioners are equally circumstanced with the said Shri T.D. Kom and therefore, the respondents cannot apply different yardstick amongst equally circumstanced persons and that having been done in the present case, the action of the respondents amounts to discrimination which is not permissible in the eye of law and is violative of the fundamental rights of the petitioners.

It is submitted that the Gauhati High Court by the Judgment and Order dated 22.01.2001 passed in WP(C) No. 1135 of 1999 had specifically directed the State respondents to implement the Order dated 02.06.1999 within a period of 6 (six) months from the date of receipt of the order. No appeal was filed by the State respondents against the Judgment and Order dated 21.01.2001 and therefore, the same has attained finality. Therefore, the respondents are duty bound to consider the case of the petitioners for regularization/ absorption particularly, when the Order dated 02.06.1999 which protected the services of the petitioners has been

upheld by the Judgment and Order dated 22.01.2001. In that view of the matter, learned senior counsel for the petitioner submits that the impugned Orders dated 29.03.2018 and 21.04.2018 and the Notification dated 16.08.2018 in so far as it concerns the post of Technical Assistance and LDC's should be set aside and quashed.

Learned senior counsel for the petitioner also submits that the petitioners have not been paid their salary from 02.03.2004 to 31.03.2007 on the ground that the petitioners have not given an

Undertaking to that effect. It is submitted that the demand for an Undertaking was never made in the past and such demand is made only to harass the petitioners and therefore, a direction should also be issued to the respondents to release their salaries forthwith.

**[11]** Mr. Lenin Hijam, learned Addl. A.G. appearing on behalf of the State respondents, at the outset, submits that the IREP is a purely 100 percent Centrally Sponsored Scheme and the appointment of the petitioners against the said scheme is co-terminus the scheme. He also submits that the process of recruitment initiated by the Notification dated 16.08.2018, which is impugned by the petitioners, pertains to the regular cadre under the Department of Science & Technology and has no connection with the post under the Centrally Sponsored Scheme. As the petitioners were appointed under the Centrally Sponsored Scheme which is co-terminus with the scheme, they have no locus to challenge the Notification dated 16.08.2018. He also submits that the appointment of the petitioners were purely on contract basis under the IREP, which is a Centrally Sponsored Scheme. Therefore, no right accrues to the petitioners for issuance of a writ of mandamus for absorption/ regularization of their services. It is submitted that the IREP is in the exclusive domain of the Central Government which is 100 percent funded by the Central Government.

While countering the submissions of the learned senior counsel for the petitioner with regard to the said Shri T.D. Kom, he submits that the Manipur Science & Technology is by itself a separate institution which is not under the State Government and therefore, the

petitioners cannot equate themselves with the said Shri T.D. Kom and seek for a direction for regularization/ absorption of their services. It is submitted that 6 (six) number of contract staff who had been engaged in the Manipur Science Centre for more than 10 (ten) years were regularized on 19.12.2016 as the Manipur Science Centre was badly in need of regular staffs. The said 6 (six) staffs have undergone 2 (two) months training in connection with their trade, which pertains to fabrication of Science exhibits, operation and maintenance of Science Centre at National Council of Science Museum, Ministry of Culture, Government of India, Kolkata. While admitting that the 6 (six) contract staffs were working in the IREP Project at MANIREDA before utilization of their services in the Manipur Science Centre,he submits that after 23.01.2006, they were no longer under the IREP Project. Learned Addl. A.G. further submits that the petitioner No. 2, who was working as Project Officer in IREP Scheme, was also utilized in the

Manipur Science Centre from 23.01.2006 to 22.02.2008 as an Education Assistant. However, as he was not satisfied at the Manipur Science Centre, he had left the said post on his own volition.

As regards the non-payment of salary to the petitioners for the period from 02.03.2004 to 31.03.2007, learned Addl. A.G. submits that the respondents had issued notice for submission of Undertaking by the petitioners that they had worked till 31.03.2007 in order to enable the respondents to take approval for release of salary. However, as the petitioners are yet to submit their Undertaking, their salaries have not been paid. He submits that the Undertaking has

been demanded by the Department in terms of the O.M. dated 27.12.2013 issued by the Finance Department. He also submits on the basis of instructions that the wages/ salaries for the period from 02.03.2004 to 31.03.2007 is available in the Finance Department subject to submission of Agreement/ Undertaking in terms of the Finance Department O.M. dated 19.02.2015 and 27.12.2013. He, therefore, submits that as and when the petitioners submits the Undertaking, their backlog salary/ wages for the period from 02.03.2004 to 31.03.2007 would be released at the earliest. He, therefore, submits that as the IREP Scheme has been discontinued by the Central Government and the petitioner having been appointed to a Centrally Sponsored Scheme, they have no locus to approach this Court praying for a direction for absorption/ regularization. Further, as the Notification dated 16.08.2018 being concerned with regular cadre under the Department of Science & Technology, the petitioners have no locusstandi to challenge the same and therefore, the writ petition being devoid of any merit deserves to be dismissed. He also places reliance in the cases of **Gauhati High Court vs. Gotto Ete & Ors.** reported in **(2018) 16 SCC 51**, **S. M. Nilajkar & Ors. vs. Telecom District Manager, Karnataka** reported in **(2003) 4 SCC 27**, **Secretary, State of Karnataka &Ors. vs. Uma Devi (3) &Ors.** reported in **(2006) 4 SCC 1**.

**[12]** Mr. A. Mohendro, learned counsel appearing on behalf of MANIREDA, also submits that the IREP Scheme has been discontinued since March, 2007. The petitioners have been engaged

with the guidelines of the Central Government, however, as the Central Government has not been made parties, the writ petition is liable to be dismissed for non-joinder of parties. Learned counsel also submits that the IREP has been transferred from MANIREDA back to Science & Technology by Order dated 03.06.2005 and therefore, MANIREDA has no hand to play with regard to the service conditions of the petitioners. The action of the Government in transferring the IREP from MANIREDA to the Department of Science and Technology was challenged by some staffs of the IREP by way of WP(C) No. 704 of 2005. However, the Order dated 03.06.2005 was not interfered with by Order dated 16.08.2005.That being the position, he submits that MANIREDA has no hand to consider the service conditions of the petitioners and no directions can be issued to the MANIREDA.

**[13]** Mr. RS. Reisang, learned senior counsel appearing on behalf of private respondent Nos. 3, 4 & 5 in both the writ petitions, while endorsing the submission made by the learned Addl. A.G., submits that the petitioners have been engaged on Block Level IREP Programme and therefore, they have no right to claim for any absorption/ regularization. Learned senior counsel for the private respondents also submits that the petitioners all belong to the general category and that in the Notification dated 16.08.2018 with regard to the 3 (three) post of Technical Assistant, one is reserved for ST, one for OBC and one under the unreserved category. As regards the 3 (three) post of LDC, 2 (two) is reserved for ST and one for unreserved category. He, therefore, submits that as all the petitioners belong to

the general category/ unreserved category, they have no locus to challenge the post which are reserved under the ST quota. Learned senior counsel has placed reliance in the case of **MD, U.P. Land Development Corporation & Anr. vs. Amar Singh &Ors**. reported in **(2003) 5 SCC 388**, **State of Uttar Pradesh &Ors. vs. Rekha Rani** reported in **(2011) 11 SCC 441**and **R. K. Sabharwal &Ors. vs. State of Punjab &Ors.** reported in **(1995) 2 SCC 745.**

**[14]** I have considered the submissions forwarded by the learned counsel for both the parties.

**[15]** This Court has considered all the judicial pronouncements passed by the Gauhati High Court as well as this Court particularly, the Judgment and Order dated 22.01.2001 passed in WP(C) No. 1135 of 1999 and the Judgment and Order dated 02.09.2015 passed in WP(C) No. 266 of 2012. Before coming to the judgment and order dated 22.01.2001 passed in WP(C) No. 1135 of 1999, it would be pertinent to consider the Order dated 02.06.1999. By the said order, all the schemes under the Non-conventional Energy Sources and IREP implemented by the Department of Science & Technology, Manipur were transferred to MANIREDA. In the said transfer, the posts held by the petitioner were also involved. Paragraph – 2 of the order dated 02.06.1999 also provides as under:

> *"2. The services of the NPED and IREP staff should be protected their services in the newly established MANIREDA and they should not be put to their disadvantages."*

A consideration of the order particularly, paragraph – 2 would indicate that during the transfer of the schemes under the Non-conventional Energy Sources and IREP, the State respondents had provided for protection of the services of those employees under the NPBD and IREP in the newly established MANIREDA. It is pertinent at this stage to point out that the IREP was again re-transferred back to the Department of Science &Technology by the order dated 03.06.2005. The protection provided in the order dated 02.06.1999, in the considered opinion of this Court, pertains to protection of the petitioner when they were under the MANIREDA. Once the petitioners are transferred out from MANIREDA, the operation of paragraph – 2 of the order dated 02.06.1999 ceased to exist. In the judgment and order dated 22.01.2001 passed in WP(C) No. 1135 of 1999, the Gauhati High Court had directed for implementation of the order dated 02.06.1999. The direction for implementation was when the IREP was under the MANIREDA and prior to transfer of IREP to the Science & Technology Department.

In that view of the matter, the protection provided in the order dated 02.06.1999 would be of no consequence, once the IREP has been transferred back to the Science & Technology Department.

**[16]** This Court has also considered the notice dated 01.10.1993 and 04.10.1996 wherein it clearly indicates that the petitioners along with others have been selected for appointment to their respective post on contract basis for a particular period under the IREP Programme of the Department. It is an undisputed fact at the

bar that the IREP is a Centrally Sponsored Scheme. That being the admitted position, this Court has no hesitation to come to the conclusion that the selection of the petitioners along with others by the Notices dated 01.10.1993 and 04.10.1996 was for selection under the Centrally Sponsored Scheme.

**[17]** In the case of Uma Devi (supra), the Hon'ble Supreme Court has held as under:

> *"43. Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely*

*on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates. (Emphasis supplied)*

*47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and*

*the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."*

**[18]** Further in MD, U.P. Land Development Corporation & Anr. vs. Amar Singh & Ors., the Hon'ble Supreme Court has observed under:

*"10. The letter dated 22/2/1993 of the Joint Secretary, U.P. Government extracted above, in clear terms states that 260 posts of different categories were created for the appellant-Corporation, against which 140 posts were already occupied by the incumbents and 120 posts were still left vacant ; those 120 posts were kept suspended and in lieu thereof permission was given to fill 107 posts temporarily newly created for the purpose of U.P. Sodic Land Reclamation Project sponsored by the World Bank. From these documents it is clear that the respondents were never recruited as against regularly sanctioned posts on a regular basis. Reading of these documents and the contentions raised on either side go to*

*show that the appointments of the respondents were temporary under the 'Million Well Scheme' afore- mentioned. When the work of the scheme had come to an end, the respondents were not entitled to claim regularisation of their services. Even though their services were continued after 31/3/1994 by virtue of an interim order passed in the Writ Petition, they cannot claim benefit of regularisation of their services as a matter of right. This Court in State of Himachal Pradesh v. Nodha Ram and Ors., AIR (1997) SC 1445. in para 4 has stated thus:*

> *"4. It is seen that when the project is completed and closed due to non- availability of funds, the employees have to go along with its closure. The High Court was not right in giving the direction to regularise*
>
> *them to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor can directions be given to the State to create posts in a non-existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them despite non-availability of the work. We are of the considered view that the directions issued by the High Court are absolutely illegal warranting our interference. The order of the High Court is, therefore, set aside."*

*11. In clear and certain terms it is stated that when the project comes to a close, the employees who are working in the project will not get any vested right. In other words, once the project comes to an end, services of the employees also come to an end. The other decisions cited by the learned counsel more or less are to the same effect." (Emphasis supplied)*

**[19]** The judgment and order dated 11.11.2010 passed in WP(C) No 719 of 2010 has also been considered by this Court. A consideration of the same clearly indicates that this Court had given a direction to the respondents for consideration of the case of the petitioners for absorption/ regularization by enacting appropriate regulation/ scheme within a period of 3 (three) months. It was a clear case of consideration and not an absolute direction for regularization/ absorption of the petitioners. The same has been held by the Hon'ble Division Bench in the Order dated 21.02.2018 passed in Writ Appeal No. 39 of 2015.

**[20]** This Court has also considered the Judgment and Order dated 15.11.2016 passed in WP(C) No. 789 of 2015 relied upon by the learned senior counsel for the petitioner. It is important to note that in the said writ petition, this Court had directed the respondents to consider the proposal for absorption of the petitioners therein as contained in the letters dated 16.11.2010 17.07.2012 and 16.12.2013 for conversion of the appointment of the petitioners therein to the regular establishment considering that the petitioners had been working under the scheme since 1993. Hereto, it was only a direction for consideration of the proposal and no absolute direction was passed by this Court.

Further the order dated 19.08.2019 passed in Writ Appeal No. 10 of 2017 as relied upon by the learned senior counsel for the petitioner has also been considered by this Court. It is pertinent

to extract the operative portion of the order dated 19.08.2019 which reads as under:

> *" 12. The learned Single Judge has only pointed out this glaring anomaly on the part of the State Government in not regularizing the project officers despite a full fledged proper and detail recommendation dated 16.11.2010 and 16.12.2013 which have already been extracted above. The learned Single has directed the Government to consider in the light of the said proposal without discrimination. The State, which has been directed to keep project alive, needs to keep the district level officers in the post if it has to sustain the IREP Scheme. This important aspect cannot be overlooked.*
>
> *13. The learned Single Judge had only directed the State Government to consider the proposal as per letter dated 16.11.2010, 11.07.2012 and 16.12.2013 for conversion of the appointment of the respondents/ writ petitioners to regular establishment considering the fact that they have worked from 1993 onwards.*
>
> *14. The decision was left to the Government. Without taking a decision on merits, the appeal has been filed on the plea that there is a bar in terms of the decision of the Hon'ble Supreme Court in Uma Devi's case. It will be useful to remind the appellant State to consider the proposal dated 16.11.2010 and 16.12.2013 in the light of para No. 53 of the Uma Devi's case and not contrary to the same. Hence, we find no error in the direction of the single judge to consider this proposal on its own merit."*

This Court is afraid to note that the cases relied upon by the learned counsel for the petitioners does not help them.

**[21]** The case of Shri T.D. Kom strenuously submitted by the learned senior counsel appearing for the petitioner has also been considered by this Court. It is undisputed that the said Shri T.D. Kom was also selected by the Notice dated 04.10.1996 along with the petitioner Nos. 1 & 3 for engagement on contract basis under the IREP Programme of the Department. The said Shri T.D. Kom continued in service on contractual basis under the Manipur Science Centre after leaving the IREP with effect from 23.01.2006 and had undergone training for 2 (two) months prior to his regularization by the order dated 19.12.2016. The submission of the learned Addl. A.G. that the Manipur Science Centre is a separate institution and not under the Government of Manipur, has not been controverted by the petitioners. The Manipur Science Centre is a society under the Manipur Societies Registration Act, 1889. That being the position, the petitioners cannot be considered at par with the said Shri T.D. Kom particularly, when he had left the IREP and had joined Manipur Science Centre with effect from 23.01.2006. That being the position, I am unable to accept the submission made by the learned senior counsel for the petitioner that the petitioners are equally circumstanced with the said Shri T.D. Kom, who was regularized as Curator in the Manipur Science Centre by the order dated 19.12.2016.

**[22]** Another important point of note is that no regular posts were sanctioned under the IREP, where the petitioners were appointed. In the absence of any sanctioned regular posts, no direction can be issued to regularize/ absorb the petitioners in service.

Further, all the petitioners were appointed on contractual basis for a specific term, that too under the IREP which is a Centrally Sponsored Scheme and which has been discontinued from March, 2007. Such kind of appointments would not confer any legal right upon the petitioners to seek regular appointment.

**[23]** In the facts and circumstances of what has been discussed hereinabove, there is no merit in the writ petitions and accordingly, both the writ petitioners are dismissed. However, with no cost.

**[24]** Interim Order stands vacated.

Before parting with the case, it is, however, directed that as and when the petitioners submit their Undertaking, the respondents shall ensure that the backlog salaries/ wages are released to the petitioners forthwith for the period from 02.03.2004 to 31.04.2007.

**JUDGE**

*joshua*

WAIKHOM TONEN MEITEI
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