

GAHC020000862024

2025:GAU-NL:320



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

Case No. : WP(C)/31/2024

MRS. AZONUO ANGAMI
CONTINGENCY SWEEPER
O/O THE DISTRICT HORTICULTURE OFFICER
KOHIMA NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND

2:THE COMMISSIONER AND SECRETARY
HORTICULTURE
GOVT. OF NAGALAND

3:THE DIRECTOR
DIRECTORATE OF HORTICULTURE
NAGALAND KOHIMA

4:SMTI. P. MOLA PHOM KISO
C/O OFFICE OF THE DISTRICT HORTICULTURE OFFICER
KOHIMA NAGALAN

Advocate for the Petitioner : ELIVIL ZAO, ASENLA LONGKUMER

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

ORDER

23.07.2025

This writ petition has been filed by the present petitioner praying for a direction to appoint the petitioner to the post of Sweeper Grade-IV at the District Horticulture Office, Kohima on the strength of being the seniormost Work-Charged Employee in the district of Kohima and also prays for a direction that the Notification No. HR/DTE/ESTT-29/N.G(MINISTERIAL)2022/1093-1109 dated 17.01.2023 appointing the respondent no. 4 be quashed and set aside.

2. I have heard learned counsel for the petitioner, Mr. Elivil Zao, learned Government Advocate, Ms. A. Ayemi and Mr. Tongpok Pongener, learned counsel for the respondent no. 4.

3. The case of the petitioner is that she was appointed as Work-Charged Sweeper vide Order dated 11.04.2000 and has been serving as such for the last 21 years and now she is the seniormost Work-Charged employee in the Office of the District Horticulture Officer, Kohima. The petitioner having learned that one Shri K. Vitoyi Chishi had retired from service submitted an application for appointment against the said vacancy in terms of the Office Memorandum No. AR-3/GEN-67/61(Pt) dated 22.09.2004, formulated by the Government of Nagaland for regularization of service of Work-Charged employees.

4. The petitioner states that the Additional Director of Horticulture

forwarded to the Government/respondent no. 2 a list of the applications for regularization/appointment/compassionate appointment starting from Serial No. 1 to 61 wherein the petitioner's name figures at Serial No. 6 of the forwarding letter dated 27.09.2022. That in the list there were five applicants applying for the post vacated by one Shri K. Vitoyi Chishi and the petitioner was the only one seeking regularization from Kohima district. It is also mentioned that Shri K. Vitoyi Chishi retired from the Office of the District Horticulture Officer, Kohima. It is submitted that the name of the present respondent no. 4 was not included in this list. Thereafter, another list of applicants was resubmitted to the respondent no. 2 by Letter dated 03.01.2023 by the respondent no. 3/Joint Director and HOD. In this resubmission list also the name of respondent no. 4 was not included.

5. However, the respondent no. 3 passed the impugned Letter dated 17.01.2023 appointing the respondent no. 4 against the post vacated by Shri K. Vitoyi Chishi, MTS, Office of the District Horticulture Officer, Kohima. Being aggrieved, the petitioner has come before this Court. It is the submission of the learned counsel for the petitioner that the appointment of the respondent no. 4 is against the laid down procedure in Office Memorandum dated 22.09.2004. The learned counsel for the petitioner, referring to the meeting Minutes of the Special Committee held on 17.01.2023 dated 17.01.2023, which is annexed as Annexure-3 to the affidavit of the State respondents, has submitted that the Meeting Minutes clearly states that regularization of in-service casual employees is to be done strictly on the basis of Office Memorandum dated 22.09.2004 and the ratio of the existing vacant sanctioned post shall stand at 8:9 for

regularization and fresh appointment respectively and that regularization will be done strictly on the basis of seniority district-wise. In the Annexure-A accompanying this Meeting Minutes of 17.01.2023 the list of recommended casual employees for regularization shows that some districts have more than one casual employee who has been regularized whereas none has been regularized from Kohima district. The petitioner has also submitted that the post of MTS which fell vacant in the Office of the District Horticulture Officer Kohima should have been allotted for regularization and accordingly, the petitioner should have been appointed against the said vacant post being the seniormost casual employee in the Office of the District Horticulture Officer, Kohima.

6. The learned Government Advocate, Ms. A. Ayemi by filing the affidavit-in-opposition has stated that the Special Committee which was constituted to examine and consider the regularization of in-service employees and fresh appointments against 17 vacant Grade-IV posts was constituted vide Circular No. HR/ESTT-2/24/GR-IV/AR/2022 dated 10.01.2023. The Committee had identified 17 vacant Grade-IV posts all over Nagaland and it held that the Department was in receipt of 69 applications from in-service employees for regularization, fresh applicants and compassionate ground. The name of the respondent no. 4 also figures at Serial No. 63 in the statement showing the applications. The Special Committee, in its meeting on 17.01.2023 decided that regularization of in-service employees would be done strictly on the basis of the Office memorandum dated 22.09.2004 and the ratio of 17 vacant sanctioned post for regularization of fresh appointment was decided to be 8:9, *i.e.*, 8 posts for regularization and 9 posts for fresh appointments.

Learned Government counsel submits that the vacant post of MTS in the Office of the District Horticulture Officer, Kohima was identified for direct appointment. It is also submitted that the petitioner could not be accommodated for regularization within the 8 vacant posts meant for in-service employees as the vacant post that arose in Kohima district was not identified for regularization. On the other hand the respondent no. 4 was appointed to the post of MTS in the Office of the District Horticulture Officer, Kohima; this post being identified under the quota for fresh appointments for direct recruitment. It is, therefore submitted that the petitioner cannot challenge the appointment of the respondent no. 4 as it was done against the quota for direct recruitment. However, learned Government Advocate, Ms. A. Ayemi has conceded that the petitioner is the seniormost among the casual employees in the District Horticulture Office, Kohima and, therefore, can be considered for regularization as and when the next vacancy arises.

7. Learned counsel for the respondent no. 4, Mr. Tongpok Pongener has also submitted that the petitioner does not have any *locus standi* to challenge the appointment of the respondent no. 4 as he has been appointed against the direct recruitment quota and not against the regularization quota.

8. This Court has considered the submissions of the parties, perused the pleadings and is of the view that as per the Office Memorandum dated 22.09.2004, 50% of regular vacancies is to be reserved for regularization of Work-Charged employees and the remaining 50% is to be filled up as per the normal rules of recruitment. Therefore, in pursuance of this Office

Memorandum of 22.09.2004 the Special Committee had identified 17 vacant posts out of which 8 posts were reserved for the regularization of existing in-service Work-Charged/casual employees and 9 posts were identified for direct recruitment. It is the discretion of the State respondents as to which posts are to be identified for direct recruitment and which posts are to be kept for regularization. It is not for this Court to direct that certain posts should be reserved for regularization and certain posts should be put up for direct recruitment. The petitioner, therefore, has no *locus standi* to challenge the appointment of respondent no. 4 and, therefore, this Court is of the view that the petitioner has failed to make out a case and the petition is dismissed.

9. However, the State respondents are directed to consider the case of the petitioner as and when the next vacancy for regularization arises as it is an admitted position that she is now at Serial No. 1 in the seniority list of Work-Charged/Casual Employees in the Office of the District Horticulture Officer, Kohima.

Petition disposed of.

JUDGE

Comparing Assistant