

GAHC020001562023

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**In the Gauhati High Court
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)**

KOHIMA BENCH

WP(C) 68/2023

Shri. Mahendra Sharma,
aged About 63 Years,
S/O Late Dharaj Sharma,
Presently Residing At Lower Jail Colony,
Kohima, Nagaland

.....Petitioner

-VERSUS-

1. The State of Nagaland and 2 Ors.

Through The Commissioner and Secretary,
Personnel and Administrative Reforms Department,
Nagaland, Kohima

2. The Commissioner Nagaland Kohima

3. The Executive Engineer (CAWD)

Office Of The Commissioner
Kohima, Nagaland

.....Respondents

BEFORE

HON'BLE MR. JUSTICE KARDAK ETE

Advocate for the petitioner : Mr. Moa Jamir.

Advocate for the Respondents : Ms. A. Ayemi, (G.A)

Date of Hearing : **27.02.2025**

Date of Judgment : **27.02.2025**

JUDGMENT & ORDER (Oral)

Heard Mr. Moa Jamir, learned counsel for the petitioner. Also heard Ms. A. Ayemi, learned State Counsel for the respondents.

2. This writ petition is filed by the petitioner challenging the impugned letters dated 29.01.2021 and 25.11.2021 issued by the Executive Engineer, (CAWD) Office of the Commissioner, Govt. of Nagaland, Kohima, whereby, the grievance of the petitioner for regularization of his service as work charge carpenter in terms of the Office Memorandum dated 17.03.2015, has been rejected.

3. The petitioner was appointed as Work charge Carpenter in the Department of CAWD, Govt. of Nagaland on 23.03.1988 with the scale of pay. The service of the petitioner was extended from time to time. The petitioner was released from service on attaining the age of superannuation vide order dated 09.01.2019 issued by the Executive Engineer, (CAWD) Office of the Commissioner, Nagaland, Kohima.

4. Having not been considered for regularisation by the respondent authorities despite the completion of 30 years continuous service as per

the scheme dated 17.03.2015, the petitioner has approached this Court by filing writ petition being WP(C) No. 204/2020. This Court has disposed of the writ petition vide order dated 09.01.2020, whereby, while accepting the right to be considered for regularization in terms of the Office Memorandum, directed the respondent authorities to consider the case of the petitioner for regularization of his service from the date he completed 30 years of service counting from the day of his appointment as Work charge carpenter for the purpose of pension and pensionary benefits. However, vide the letters dated 29.01.2021 and 25.11.2021, the respondent authorities have rejected the prayer of the petitioner, on the ground that the petitioner is required to obtain/produce the statements duly certified by the District Level Verification Committee prior to his released from the service as per Clauses 1(i) (a) and 3 (ii) of the Office Memorandum dated 17.03.2015. Since, the petitioner has failed to submit the said required statements despite he being informed about the said requirement, the petitioner's case cannot be considered for regularisation.

5. Mr. Moa Jamir, learned counsel for the petitioner submits that as per the Government scheme as provided in the Office Memorandum dated 17.03.2015, the petitioner is entitled to be regularized as he has completed 30 years of continuous service as workcharge carpenter. However, his service was not regularized and he was released from service on attaining the age of superannuation on 09.01.2019, which has deprived him from his right of pension and other benefits.

6. Mr. Moa Jamir, learned counsel for the petitioner submits that as the petitioner is entitled to be regularized as per the said scheme and the ground of rejection being that the petitioner has failed to appear before

the District Level Verification Committee and his name was being remarked as absent in the list of verified work charge employees for regularization, the petitioner may be directed to be allowed to appear before the District Level Verification committee and on verification, the case of the petitioner may be considered for regularization for the purpose of pension and pensionary benefits.

7. On the other hand, Ms. A. Ayemi, learned State Counsel submits that the petitioner was duly informed of the procedure for verification by the District Level Verification Committee as required under the scheme for regularization of service of the work charge employee. Despite such information and opportunity, the petitioner has failed to appear before the District Level Verification Committee. Therefore, since he has missed the opportunity, and after being released from the service on attaining the age of superannuation, it would not be permissible to consider the case of the petitioner at this stage, as the requirement of the scheme has not been complied with. Therefore, the case of the petitioner cannot be considered at this stage. That apart, the petitioner has already availed all the benefits after his release legally by the authorities on being attaining the age of superannuation and as such present writ petition may be dismissed.

8. I have considered the submissions of the learned counsel for the parties and perused the materials available on record.

9. As per the scheme for regularization and absorption of work charge and casual employees dated 17.03.2015 issued by the Chief Secretary to the Govt. of Nagaland, it provides that all existing work-charged and casual employee of various Departments, who are enjoying scale of pay

and who have completed 30 years or more continuous service as on 01.01.2015 will be regularized by conversion of their post into regular ones personal to them and subject to fulfilment of conditions as indicated therein. One of the conditions is that the incumbent concerned and his or her service rendered as work charged/casual employees is to be duly verified and found genuine by the District Level Verification Committee constituted by the Government. The list shall be certified by the District Level Verification Committee to the effect that the incumbents included in the list are verified and found genuine.

10. Admittedly, the case of the petitioner has not been verified by the District Level Verification Committee, consequent to which the case of the petitioner was not considered as his name in the list was remarked as absent. It is also admitted position that the petitioner did not appear before the District Level Verification Committee, in terms of the scheme. The scheme provides for regularization of the work-charged and casual employees, who have been appointed with scale of pay and had completed 30 years or more continuous service. The verification by the District Level Verification Committee appears to be to authenticate the genuineness of the work-charged and casual employees. Therefore, in my view, mere non-appearance before the verification committee should not be a bar for consideration in the view of the fact that the petitioner has completed 30 years of continuous service as work-charged carpenter and provided with scale of pay.

11. That apart, in the earlier round of proceedings instituted by the petitioner being WP(C) 204/2020, this Court was of the view that the petitioner has the right to be considered for regularisation in terms of the

Office Memorandum dated 17.03.2015. Thus, I am of the view that the case of the petitioner needs to be reconsidered by the respondent authorities as only ground of rejection of the petitioner is non-appearance before the District Level Verification Committee.

12. Having considered above and in the facts of the present case, I am of the view that it would serve the ends of justice, if the respondents are directed to re-consider the case of the petitioner. Accordingly, it is directed that the petitioner shall appear before the District Level Verification Committee, as required under the scheme and for that the petitioner shall file a representation along with the copy of this order so that the respondent authorities would convey the date and time of verification. On appearance and after verification, if it is found that the petitioner had completed 30 years as work-charged employee and provided with scale of pay, his name shall be recommended for regularization to the competent Authority. The whole exercise of consideration shall be completed within a period of five months from the date of verification of the petitioner by the District Level Verification Committee in terms of the said scheme.

13. Consequently, the impugned letters dated 29.01.2021 and 25.11.2021 issued by the Executive Engineer, (CAWD) Office of the Commissioner, Govt. of Nagaland, Kohima, is set aside and quashed.

14. With the above observation and directions, this writ petition stands disposed of. No order as to costs.

JUDGE

Comparing Assistant