GAHC020003322025

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

Case No. : WP(C)/105/2025

SHRI YANGCHOPI
WORK CHARGE KHALASI (RETD), PERMANENT RESIDENT OF YINGSHUKUR VILLAGE, KIPHIRE NAGALAND

VERSUS

STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT, OF NAGALAND, NAGALAND KOHIMA 2:THE COMMISSIONER AND SECRETARY PHED NAGALAND KOHIMA

3:THE CHIEF ENGINEER
PHED
NAGALAND KOHIMA

4:THE EXECUTIVE ENGINEER
PHED
KIPHIRE DIVISION
NAGALAN

Advocate for the Petitioner : L LIKHASE SANGTAM, PACHUNG CHIO,ANGAM KONYAK,MUTHOI

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 21/11/2025

1. Heard Mr. L. Likhase Sangtam, learned counsel for the petitioner. Also heard Ms. S. Chang, learned Government Advocate, Nagaland, appearing for the State respondents.

2. The case of the petitioner is that he was initially appointed as work charged Labour in the year 1986 under the establishment of Sub-Division Office, PHED, Tuensang, Nagaland. Thereafter, his service was upgraded to Work charged Khalasi in the scale pay of Rs. 3000-15200/- per month till he was released from service on 30.11.2021 after serving the department for 35 years. After completion of 30 years of service, he made a representation before the respondent authorities for regularization of his service in terms of the OM dated 17.03.2015. After his release from service also, the petitioner has made a representation before the respondent authorities for regularization of his service and to extend him pensionary benefits. However, the same has not been considered till date.

3. The petitioner's counsel submits that in terms of the OM dated 17/03/2015 issued by the Government of Nagaland, Personnel & Administrative Reforms Department (Administrative Reforms Branch), the petitioner was eligible to have his service regularised after 01/01/2015 and his past service was to be counted towards length of service, for the purpose of Nagaland Retirement from Public Employment Act, 2009 and as qualifying service for the purpose of pension. However, the said respondents did not take any action for regularisation of petitioner's service prior to his release from service.

4. The petitioner's counsel submits that in a similar case, a

Coordinate Bench of this Court in the case of ***Shri Thsengtsato S Vs. The State of Nagaland and others [WP(C) 179/2023]***, vide judgement and order dated 06/06/2024, directed the State respondents to take steps in terms of Clause 1(ii) of the Office Memorandum dated 17/03/2015 and take an appropriate decision, so that the petitioner's case therein was duly considered for regularisation with effect from 01/01/2016.

5. Ms. S. Chang, learned Government Advocate, Nagaland, appearing for the State respondents, fairly submits that the present case appears to be a covered matter in terms of the judgement and order passed in WP(C) 179/2023.

6. I have heard the learned counsels for the parties.

7. A Coordinate Bench of this Court had decided WP(C) 179/2023, wherein the petitioner therein was appointed on 12/09/1985 as a Work Charged Carpenter under the establishment of the Sub-Divisional Officer (PWD), Kiphire Sub-Division, Nagaland, in the scale of pay of Rs. 375-7-445-9-10-590 per month plus other allowances admissible from time to time. The petitioner on completion of 35 years of service was released on 30/09/2020.

8. The petitioner filed a writ petition in this Court after his release from service, praying for regularisation of his service in terms of the OM dated 17/03/2015, inasmuch as, the petitioner therein had competed 30 years of continuous service as on 11/09/2015. The Coordinate Bench of this Court held that as the petitioner's case therein came within the four corners of the OM dated 17/03/2015, it was incumbent on the part of the State respondents to have considered the case of the petitioner therein

for regularisation and payment of pension, in terms of the OM dated 17/03/2015. The operative part of the judgement and order dated 06/06/2024 passed in WP(C) 179/2023, is reproduced herein below for ready reference :-

"*6. This Court taking note of and also upon perusal of the Office Memorandum dated 17/03/2015 is of the opinion that if the petitioner was duly appointed on 12/09/1985 and had been granted the scale of pay, the petitioner's case ought to have been considered by the respondent authorities as far back as on 1st January, 2016 inasmuch as the petitioner duly completed 30 years on 11/09/2016.*

7. Taking into account that the respondent authorities have not complied with the mandate as stipulated in Clause 1 (ii) of the Office Memorandum dated 17.03.2015, this Court therefore disposes of the instant writ petition thereby directing the respondent authorities, more particularly the respondent Nos.2 & 3 to take appropriate steps in terms with Clause 1 (ii) of the Office Memorandum dated 17.03.2015 so that the petitioner's case is duly considered for regularization w.e.f. 01.01.2016.

8. This Court finds it relevant to observe that the instant judgment is passed on the basis of the statements made in the writ petition that the petitioner was duly appointed on 12.09.1985 and was granted a scale of pay. The respondents have however not filed an affidavit, inspite of various opportunities. Be that as it may, the respondent prior to carrying out the direction passed in paragraph No.7 above would be at liberty to carry out the said verification. It is clarified that upon verification if it is found that the petitioner was duly appointed on 12.09.1985 and was granted the scale of pay, the above directions be complied with. In addition to that, this Court observes and directs that the petitioner would also be entitled to all service benefits viz. pension etc. pursuant to the regularization."

9. As can be seen from the facts of this case, the petitioner's case herein was also to be considered for regularisation, in terms of the OM dated 17/03/2015 during his service period. Though the petitioner has retired from service and has submitted the present writ petition after his retirement, the filing of this writ petition after his retirement, in the opinion of this Court, cannot be a reason for

the State respondents to run away from its responsibility from considering the petitioner's case, in terms of the OM dated 17/03/2015.

10. As such, this Court is of the view that the petitioner's case should also be considered in terms of the OM dated 17/03/2015 and the decision of the Coordinate Bench in WP(C) 179/2023.

11. The relevant portion of the OM dated 17/03/2015, which is basically in relation to regularisation and absorption of Work Charge and Casual employees and payment of pension, which is at Clause 1 of the said OM, is as follows :-

"*1. **Regularisation in service**:*

(i) All existing work-charged and casual employees of various Departments who are enjoying scale pay and who have completed 30 (thirty) years or more continuous service as on 01.01.2015 will be regularized by conversion of their posts into regular ones personal to them and subject to fulfillment of conditions as indicated below:

(a) The incumbent concerned and his/her service rendered as work-charged/casual employee have been duly verified and found genuine by the District Level Verification Committee constituted by the Government.

(b) Availability of service records including appointment order, date of initial appointment, proof of length of service/age etc.

(c) Their suitability for continuation in service to be recommended by the Heads of Department concerned.

(d) The post occupied by them on regularization shall automatically stand abolished as and when they vacate the post on retirement, resignation, death ete. The strength of the work-charged and casual employees under various Departments shall stand reduced by equal number concurrently with the regularization of such employees. No fresh appointment shall be made against these posts

(e) On regularization in service, the pay of the incumbent shall be fixed at the minimum of the corresponding Pay Band and Grade Pay as admissible under Rule 10 of Nagaland Services ROP Rules, 2010.

(f) The past service rendered as work-charged/casual employee shall be counted towards length of service for the purpose of Nagaland Retirement from Public Employment Act. 2009 and as qualifying service for the purpose of pension.

(g) This scheme shall, however, not be applicable to the part time Casual employees, Village Guards, Home Guards, ICDS workers, other CSS paid employees whose services are guided by specific terms and conditions laid down by the Government and

some other categories of contingency employee like personal peons, part time sweepers/chowkidars/ seasonal workers etc.

(h) The period of service rendered as work-charged/casual employees shall not be counted for the purpose of MACP.

(ii) In respect of those work-charged and casual employees in scale pay and who have completed or will complete 30 (thirty) years of continuous service after 01.01.2015, their cases for regularization will be taken up subsequently in two batches as on 1 July and 1" January every year. The procedures and terms and conditions will be the same as laid down in this O.M.

(iii) The existing scheme for regularization of work-charged employees against normal vacancy is being modified and the quota for work-charged employees stands enhanced from 50% to 67% for the next 5(five) years effective from 01.01.2015. This existing scheme will also be applicable for the casual employees appointed on full time basis."

12. In view of the reasons stated above,, the respondent authorities are directed to consider the case of the petitioner for regularisation with effect from 01/01/2016, in terms of the OM dated 17/03/2015, which would entitle the petitioner to the grant of pension.

13. The exercise should be completed within a period of 6(six) months from the date of receipt of a certified copy of this order.

14. The writ petition is accordingly disposed of.

15. No order as to costs.

Sd/-

JUDGE

Comparing Assistant