



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

Case No. : WP(C)/243/2022

SHRI. NGUKHA
AGED ABOUT 64 YEARS,
S/O SHRI.SOUTSHITHO,
W/C SEMI SKILLED LABOUR(SUPERNNAUTED),
BEARING CODE NO.PHK.0660, UNDER SUB DIVISIONAL OFFICER,
PHED, MELURI SUB-DIVISION, PHEK, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 2 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, NAGALAND, KOHIMA

2:THE PRINCIPAL SECRETARY

PHED
NAGALAND
KOHIMA

3:THE CHIEF ENGINEER

PHED
NAGALAND
KOHIM

Advocate for the Petitioner : SENTIYANGER, CHUBA IMCHEN,V ANNE
THERIE,KONLI BUCHEM

Advocate for the Respondent : GOVT ADV NL,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

21.01.2025

Heard the learned counsel Mr. Sentianger appearing for the petitioner. Also heard Mr. Moa Inchen, the learned Senior Government Advocate representing the State Respondents.

2. This is an application under Article 226 of the Constitution of India praying for enforcement of the petitioner's constitutional and legal rights guaranteed under Part-III of the Constitution of India particularly Articles 14, 16 & 21.

3. The petitioner Shri. Ngukha was appointed as a Work-Charge Semi Skilled labourer bearing Code No.PHK-0660 in the fixed pay of ₹490/- per month vide Order No.EE/PHE/WC/B1-6/88-89/306-310 dated 05.04.1988. After serving continuously for a period of 29 years 5 months and 26 days, on 30.09.2017, he was released from service on completion of 60 years of age.

4. During the said period of 29 years 5 months and 26 days, many such employees, except the present petitioner, were regularized in service. On 10.08.2021, the petitioner filed a representation to the Chief Engineer, PHED, Nagaland, Kohima for regularization of his services for the purpose of pensionary benefits. The same was not considered. Therefore, the petitioner filed a writ petition being WP(C) No.325/2021 before this Court. The said writ petition was disposed of on 31.03.2022, whereby this Court directed the respondents to dispose of the representation of the petitioner within a period of six weeks. Accordingly, the respondents considered the representation of the petitioner and dismissed the same.

5. Mr. Sentianger has pointed out that in a similarly situated circumstance, this Court in WP(C) No.21/2021 [Shri. Angphei Konyak -versus- The State of Nagaland and 2 Ors.] directed the State respondents to regularize the services of the petitioner of that case.

6. I have heard the learned counsel of both sides.

7. The factual matrix of WP(C) No.21/2021 was that the petitioner was appointed as a Work-Charged labourer in the Department of Public Health Engineering, Government of Nagaland by the Sub-Divisional Officer, P.H.E., Champang, Mon District vide Order No.CGE/PHE/2-3/04-05/334-44 dated 31.08.1984 with a scale of pay of ₹300/- per month with effect from 01.09.1984 in place of one Shri Angba Konyak who had submitted his resignation. After completion of 35 years of continuous service, the petitioner retired. On 08.08.2019, the petitioner filed a representation to the Chief Engineer, PHED, Kohima, Nagaland to regularize his services. That representation was not considered.

8. Under the aforesaid factual matrix, this Court passed the following order, which is quoted as under:

“7. It has been submitted by the learned counsel for the petitioner that the petitioner, when he retired enjoyed, only Rs. 3450/- per month as pay. It is difficult to imagine how he would have struggled all his life to look after his family members. After having led such a life, to let him go empty handed cannot be reasonable. Slavery and forced labor are things of the past but it appears that for some people they still suffer from such practices. Therefore, in similar cases, i.e. WP(C)/241/2021, WP(C)/242/2021, WP(C)/243/2021, WP(C)/244/2021, WP(C)/245/2021, WP(C)/246/2021, WP(C)/247/2021, WP(C)/248/2021 and WP(C)/249/2021, this Court on 24.03.2022 had allowed the prayer of the persons who are similarly situated as the petitioner, and directed the State Government to consider regularization of their services for

pension and pensionary benefits.

8. Taking into view the Order passed in those nine Writ Petitions and the Order of the Hon'ble Supreme Court given above, this Court is of the view that the case of the petitioner, praying for regularization of his service so that he may enjoy pension and pensionary benefits is a legitimate prayer."

9. The aforesaid order of the Single Bench was challenged before a Division Bench of this Court in Writ Appeal No.35/2022 [The State of Nagaland & 2 Ors. -versus- Shri Angphei Konyak] and the Division Bench dismissed the said appeal.

10. The State respondents moved the Hon'ble Supreme Court vide Special Leave Petition (Civil) Diary No(s).22747/2024 challenging the judgment of the Division Bench and the Hon'ble Supreme Court also dismissed the said Leave Petition.

11. Reverting to the case in hand, this Court is of the opinion that the ratio laid down in WP(C) No.21/2021 is also applicable in the present case.

12. In the State of Gujarat & Ors. -versus- Talsibhai Dhanjibhai Patel, reported in 2022 LiveLaw (SC) 187, the Apex Court had observed that after utilizing service of an employee for 30 years and thereafter contending that the employee who has rendered 30 years of continuous service shall not be eligible for pension is nothing but unreasonable in a welfare State. The Apex Court has held that the State cannot be permitted to take the benefit of its own wrong. The Court further held that as a welfare State, the State as such ought not to have taken such a stand.

13. In the case in hand, the present petitioner has served the respondents for a period of 29 years 5 months and 26 days before his retirement. At this stage, the petitioner is not fit to be employed in any other place. The act of the State is a violation of the natural justice. Therefore, the present writ petition is

disposed of with a direction to the State respondents to regularize the petitioner's services within a period of 4(four) months from the date of receipt of the copy of this order so that he will at least enjoy the pension and other pensionary benefits after all those years of dedicated service rendered to the State.

JUDGE

Comparing Assistant