

GAHC020004982024

2025:GAU-NL:328



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

Case No. : WP(C)/307/2024

SHRI WETETSHO KAPFO AND 4 ORS
RESEARCH SCIENTIST
BSL-3 NHAK
KOHIMA NAGALAND

2: DR VISENUO AIKO
RESEARCH SCIENTIST
BSL-3 NHAK
NAGALAND KOHIMA

3: DR MERINO VISA
RESEARCH SCIENTIST
BSL-3 NHAK
NAGALAND KOHIMA

4: DR CHENOLE KEPPEN
RESEARCH SCIENTIST
BSL-3 NHAK
NAGALAND KOHIMA

5: SMTI. RUKUWE-U KUPA
RESEARCH SCIENTIST
BSL-2 DISTRICT HOSPITAL
TUENSANG
NAGALAND
VERSUS

STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY
NAGALAND KOHIMA

2: THE COMMISSIONER AND SECRETARY

DEPT OF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

3:THE COMMISSIONER AND SECRETARY
P AND AR DEPT.
NAGALAND KOHIMA

4:THE PRINCIPAL DIRECTOR
DIRECTORATE OF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

Advocate for : TAKA MASA
SR. ADV
Advocate for : GOVT ADV NL appearing for STATE OF NAGALAND AND3
ORS

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

22.07.2025

The present petition under Article 226 of the Constitution of India has been filed by the petitioners praying for a direction to the respondents to conduct the written examination and viva voce under the Special Recruitment Drive for six posts of Research Scientist as approved by the Letter No. HFW(A)10/34/2024/215 dated 20.08.2024 issued by the Joint Secretary to the Government of Nagaland, Health & Family Welfare Department and Letter No. DHFW-1-SRD/663/2020/7892-94 dated 21.08.2024 issued by the Principal Director, Directorate of Health & Family Welfare Nagaland within a time bound manner.

2. I have heard the learned senior counsel, Mr. Taka Masa assisted by Mr. Sentilong for the petitioners as well as Ms. V. Suokhrie, learned Additional AG for the State of Nagaland.

3. The case of the petitioners is that they are presently serving as Research Scientists on temporary basis under the Directorate of Health & Family Welfare. The State Cabinet vide Memorandum No. CAB-2/2013 dated 31.03.2020, Memorandum No. CAB-2/2013 dated 01.06.2020, Memorandum No. CAB-2/2013 dated 12.06.2020 and Memorandum No. CAB-2/2013 dated 25.06.2020 had created 280 posts of Medical Officers, Dental Surgeons, Nurses, etc. including six posts of Research Scientists under the Department of Health & Family Welfare during the COVID-19 pandemic. The post creation was notified by Notification No. HFW(A)COVID-19/APPT-13/17/2020(Pt) dated 02.07.2020. The Cabinet had also decided to relax the recruitment rules to conduct a Special Recruitment Drive to meet the COVID-19 pandemic emergencies to the aforesaid posts. Thereafter, a Special Recruitment Drive was conducted for appointment on temporary basis. The petitioners were appointed during the Covid-19 pandemic by Order No. HFW(A)COVID-19/APPT-13/17/2020 dated 21.12.2020 and they are still continuing on temporary basis till date. The State Cabinet in its Meeting dated 26.05.2022 had further decided for relaxation of the Recruitment Rules for Special Recruitment of Health Care Workers who had served during the COVID-19 pandemic on regular basis vide No. CAB-2/2013 dated 26.05.2022. Accordingly, the posts were notified by the Notification No. HFW(A)COVID-19/APPT-13/17/2020/543 dated 02.11.2022. The State Cabinet by another decision vide No. CAB-1/14/2023 dated 07.08.2024 had further decided for relaxation of earlier approved procedures for regularization of service of COVID-19 appointees through Departmental Screening Committees. Accordingly, administrative approval was granted by Letter No.

HFW(A)/10/34/2024/2015 dated 20.08.2024 for written examination on 26.08.2024 and viva voce on 27th and 28th August 2024. The petitioners herein had also accordingly received their Admit Cards to appear the Special Recruitment Drive. However, by the impugned Letter No. HFW(A)/10/34/2024/441 dated 23.08.2024 and the impugned Letter DHFW-1-SRD/663/2020/7938 dated 24.08.2024 the aforesaid examination was deferred for two weeks without any reasons. The petitioners had also submitted a representation; however, there has been no positive action by the respondents till date. It is also stated that there is no service rule governing the Research Scientists and their service conditions are covered by the decisions of the State Cabinet and the Administrative decisions taken by the State Government respectively.

4. Being aggrieved the petitioners are before this Court seeking for a direction to the respondents to conduct the written exam and viva voce of the Special Recruitment Drive for six posts of Research Scientists as approved by the State Government and communicated by the Letter dated 20.08.2024. The case of the petitioners is that the advertisement of the six posts of Research Scientists vide advertisement dated 04.08.2020 is not under challenge by anyone and the policy decision made by the State Cabinet as well as the various administrative instructions made subsequently and the advertisement have not been challenged.

5. In the affidavit-in-opposition of the State respondents it is mentioned that writ petitions have been filed challenging the regularization of COVID-19 appointees in WP(C)/187/2024 and WP(C)/239/2024 and the advertisement for the post of Medical Officers and Dental Doctors and

wherein interim orders have been passed by this Court dated 21.10.2024 in WP(C)/239/2024 staying the interview process and therefore, the State respondents had deferred the Special Recruitment Drive for the Research Scientists.

6. Upon going through the pleadings and also the facts and circumstances in WP(C)/187/2024 and WP(C)/239/2024, it is seen that the challenge is only regarding the advertisement for the post of Medical Officers and Dental Doctors and the policy decisions made by the State Government on the ground that the service rules have been violated by the State Cabinet; and the Administrative orders and decisions. However, in the present case, it is an admitted position that there are no service rules governing the service of the petitioners. And accordingly, the various policy decisions and the administrative instructions/notifications will govern the services of the present petitioners. In view of this observation it is the opinion of this Court that there is no impediment for the State respondents to conduct the interview in respect of the Research Scientists.

7. Accordingly, the impugned Letter No. HFW(A)10/34/2024/441 dated 23.08.2024 and Letter No. DHFW-1-SRD/663/2020/7938 dated 24.08.2024 are quashed and set aside in as far as the petitioners are concerned. The State respondents are directed to conduct the written examination and viva voce for the six posts of Research Scientists within a period of 2 (two) months from the date of receipt of a copy of this Order.

JUDGE

Comparing Assistant