GAHC020001672018

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

Case No. : WP(C)/70/2018

YANBENI LOTHA
WOKHA

VERSUS

THE STATE OF NAGALAND AND 8 ORS.
KOHIMA 2:COMMISSIONER AND SECRETARY
PERSONNEL AND ADMINISTRATIVE REFORMS DEPT
NAGALAND
N/L
KOHIMA

3:THE FINANCIAL COMMISSIONER TO THE GOVT. OF NAGALAND
N/L
KOHIMA

4:SECRETARY
TO THE GOVT. OF NAGALAND
DEPT. OF POWER
N/L
KOHIMA

5:CHIEF ENGINEER
DEPTT OF POWER.
N/L KOHIMA

6:ENGINEER-IN-CHIEF
TRANSMISSION AND GENERATION
DEPT. OF POWER
N/L
KOHIMA

7:EXECUTIVE ENGINEER
POWER DEPT.

WOKHA DIVISION

8:THE TREASURY OFFICER
WOKHA
N/L

9:ACCOUNTANT GENERAL
NAGALAND
N/L
KOHIM

Advocate for the Petitioner : I. IMTI LONGCHAR, ,,KIROBA,SUPONGWATI WALLING,KEKHRIESENUO,R ATSULA KIPS,,,VIKHONO KISO

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 08.10.2026

Heard Ms. Obangnenla Longchar, learned counsel for the petitioner. Also heard Mr. E. Thiba Phom, learned Government Advocate for the State respondents and Ms. N. Rupreo, learned counsel for the respondents No. 9.

2. The learned counsel for the petitioner, after having argued the matter at some length, by referring to a decision of a Co-ordinate Bench of this Court in the case of *Sungmo Chang Tuensang* -vs- *State of Nagaland*, judgment dated 20.06.2025, passed in W.P.(C) No. 69 of 2018, wherein under similar circumstances, a Co-ordinate Bench of this Court has

rejected the claim of the petitioner therein for regularization of the services of her deceased husband posthumously, has fairly submitted that the said decision would also squarely apply to the facts of this case.

3. The learned counsel for the petitioner has fairly submitted that from the materials brought on record in the present writ petition, it is seen that the husband of the petitioner was not placed within the seniority position for appointment/regularization of his services, as well as there is no clarity with regard to the vacancies available. Accordingly, she submits that the regularization of the services of the husband of the petitioner posthumously may not be permissible. However, by referring to the decision of the Co-ordinate Bench of this Court, in the case of *Sungmo Chang Tuensang (supra)*, she has stated that the Court had remanded the matter back to the authorities for consideration as to whether the case of the petitioner, therein, would fall within the purview of the CCS (Extraordinary Pension) Rules, 1939.

4. The learned counsel for the petitioner submits that in an earlier round of litigation instituted by the present petitioner in

W.P.(C) No. 171(K) of 2007, a Co-ordinate Bench of this Court, vide order dated 26.02.2008, had remanded the matter to the Government for consideration as to whether the petitioner, herein, would be eligible for grant of ex-gratia as well as extraordinary family pension, as may be applicable. She submits that the said decision has not been assailed by the State respondents and has attained finality, although the said decision is yet to be complied with.

5. In the above premises, the learned counsel for the petitioner submits that the respondent authorities may be directed to consider the case of the petitioner in the light of the decision of the Co-ordinate Bench of this Court, vide order dated 26.02.2008, in W.P.(C) No. 171(K) of 2007, and for grant of extraordinary pension under the provisions of the CCS (Extraordinary Pension) Rules, 1939 and/or any rule in this connection framed by the Government of Nagaland.

6. Mr. E. Thiba Phom, learned Government Advocate appearing for the State respondents submits that the services of the petitioner's husband would not be permissible to be regularized in terms of the Office Memorandum dated 22.09.2004, and the prayer of the petitioner in this connection

has already been rejected.

7. With regard to the prayer of the petitioner for being authorized extraordinary pension under the CCS (Extraordinary Pension) Rules, 1939, the learned counsel submits that the said provisions of the Rules of 1939 have not been adopted in the State of Nagaland. However, he submits that considering the earlier decision of this Court in the proceedings of W.P.(C) No. 171(K) of 2007, this Court may remand the matter to the respondent authorities for a fresh decision in accordance with law and in line with the decision of this Court in the case of *Sungmo Chang Tuensang (supra)*.

8. I have heard the learned counsel for the parties and perused the materials available on record.

9. Considering the submissions of the learned counsel for the parties, this Court is not proceeding to consider as to whether the services of the husband of the petitioner was entitled to be regularized during his lifetime. The submissions of the parties have brought to the forefront that the husband of the petitioner was not entitled to have his services regularized during his lifetime.

10. Having drawn the said conclusion, this Court thereafter, has perused the decision of the Co-ordinate Bench, in the case of *Sungmo Chang Tuensang (supra)* and finds that after having drawn a similar conclusion with regard to the retrospective regularization of the services of the husband of the petitioner therein, this Court had drawn the following further conclusions;

> "*33. However, it appears that the petitioner died-in-harness after serving for 24 years and he died while he was on duty in the extension of 11 KV 3 Phase Transmission Line 250 KVA 11/4 KVA Sub-station PMGY Assam Rifles, Nagaland Range, hence, his case may be considered under the provisions of CCS (Extraordinary Pension) Rules, 1939 as amended till date. The objection raised by the learned Government counsel that the said relief was not claimed in the writ petition and there is no pleading to that effect in the writ petition, in the considered opinion of this Court is not of much relevance, as the power to mould the relief, in an appropriate case, is always there with a Writ Court.*
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> *34. In view of the above, this Writ Petition is disposed of with a direction to the State respondent to consider as to whether the case of the husband of the petitioner falls within the purview of CCS (Extraordinary Pension) Rules, 1939 as*

amended till date and thereafter, pass necessary order with regard to the entitlement of the pension and pensionary benefits by the petitioner in respect of her deceased husband under the provisions of CCS (Extraordinary Pension) Rules, 1939 as amended till date. The respondents are directed to comply with this judgment within a period of four months from the date of this judgment and the same shall be communicated by the State respondent to the present petitioner within the said period. The petitioner shall furnish the certified copy of this judgment to the State respondents for taking appropriate steps in compliance thereof."

11. A perusal of the said conclusions would go to reveal that the husband of the petitioner in the case of *Sungmo Chang Tuensang (supra)* had died while on duty on account of electrocution, and accordingly, a direction was issued to the State Government to consider the plea of the petitioner therein for being authorized extraordinary pension under the provisions of the CCS (Extraordinary Pension) Rules, 1939.

12. This Court finds that the present petitioner earlier had approached this Court by way of instituting W.P.(C) No. 171(K) of 2007, *inter-alia* praying for being authorized ex-gratia

payment for the death occasioning to her husband, as well as for being authorized extraordinary family pension. This Court, vide order dated 26.02.2008, proceeded to dispose of W.P.(C) No. 171(K) of 2007, *inter-alia* directing the respondent authorities to verify the claim of the petitioner and, to ascertain as to whether she would be entitled to receive ex-gratia as well as extraordinary family pension and thereafter, to proceed in the matter accordingly. However, it is seen that the said directions passed by this Court have not been complied with.

13. Be that as it may, in view of the directions passed by this Court, in the case of *Sungmo Chang Tuensang (supra)*, the petitioner is directed to file a representation before the respondent authorities, *inter-alia* claiming for being authorized ex-gratia as well as extraordinary pension, and therein, in addition to placing reliance upon the decision of the Co-ordinate Bench, in the case of *Sungmo Chang Tuensang (supra)*, to also rely on the order dated 26.02.2008, passed by this Court in the case instituted earlier by the petitioner in W.P. (C) No. 171(K) of 2007.

14. The respondent authorities, on receipt of such

representation from the petitioner, shall consider the same in the light of the decision of this Court in W.P.(C) No. 171(K) of 2007 as well as the decision of this Court in the case of *Sungmo Chang Tuensang (supra)*, and pass a speaking order determining the claim of the petitioner.

15. In the event, the petitioner is found entitled to the benefits sought for, the said benefits be released to the petitioner expeditiously.

16. The speaking order that would now be required to be passed in this matter shall be so passed within a period of 3(three) months from the date of receipt of a representation from the petitioner along with a certified copy of the present order.

17. With the above observations and directions, the present writ petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant