

GAHC010045952025



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

Case No. : WP(C)/1576/2025

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS,
DEPARTMENT OF PERSONNEL AND TRAINING (D.O.P. AND T.), NEW
DELHI-110001

2: THE PRINCIPAL REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
61/35
COPERNICUS MARG
NEW DELHI-110001

3: THE DEPUTY REGISTRAR/HEAD OF OFFICE
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
RAJGARH ROAD
DIST- KAMRUP (M)
GUWAHATI-781005

4: THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
NORTHERN REGION
BLOCK NO. 12
C.G.O. COMPLEX
LODHI ROAD
NEW DELHI-11000

VERSUS

SMT. MOU MAZUMDAR
D/O LATE KARUN KUMAR MAZUMDAR, LOWER DIVISION CLERK (NOW
JUNIOR ASSISTANT), CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, RAJGARH ROAD, DIST- KAMRUP (M), PIN-781005

For the appellant/petitioner(s) : Ms. R. Devi, CGC
For the Respondent(s) : Mr. S. Nath, Advocate

- B E F O R E -

**HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY**

02.04.2026

(Ashutosh Kumar, CJ)

We have heard Ms. R. Devi, learned Central Government counsel for the petitioners/Union of India and three others, and Mr. S. Nath, learned Advocate for the sole respondent.

The respondent was initially appointed as a Lower Division Clerk, on temporary basis, in the Central Administrative Tribunal, Guwahati Bench (hereinafter referred to as "Tribunal"), in January, 2011 which, according to the petitioners, was only a stop-gap arrangement to fill up urgent vacancies while waiting for permanent hires through the Staff Selection Commission (SSC).

The ad hoc tenure of the respondent was extended from time to time and, ultimately, her services were regularized w.e.f. 13.08.2013 and not from her initial date of joining. This meant that her earlier tenure as an ad hoc employee from January, 2011 to August, 2013 was not to be counted towards seniority, promotion and other benefits. In the original order of appointment of the respondent, and the subsequent orders of continuation on several occasions, it was made very clear that such appointment or renewal thereof will not bestow on her any right for

regularization of her service, or for her promotion to higher post, and her service could be terminated at any time without assigning any reason.

In the year 2021, the SSC announced a limited departmental competitive examination for promotion to the posts of Upper Division Clerk, with the requirement of the candidates having served as regular Lower Division Clerk for five years, to be counted from 01.07.2017.

For the regular appointment of the respondent having been made only in the year 2013, she did not have the requisite eligibility experience for her to apply for the aforesaid limited departmental examination. It was only at that stage that the respondent approached the Tribunal, seeking a direction for counting of her services during her ad hoc period as regular service on the ground that even though her initial appointment was ad hoc/temporary, it was in consonance with the rules, which was very evident from the pay scale, which was allotted to her.

Based on the afore-noted submission, the Tribunal, vide order dated 17.05.2024, set aside the letter of the Tribunal, issued on its administrative side, rejecting the request of the respondent for adding her ad hoc service period with her regular service period for the purpose of enabling her to appear in the limited departmental examination. The Tribunal also directed for granting all consequential benefits like seniority and financial up-gradation to the respondent, treating her service to have been regularized from 04.01.2011, i.e. from the date of her initial ad hoc appointment and not from her regular appointment on 13.08.2013.

The afore-noted order of the Tribunal has been questioned by the petitioners on the ground that when the original appointment letter and the subsequent continuation orders specifically intimated the respondent

that such appointment was not to be treated as a precursor to regular appointment, or would not be added for the purpose of seniority or any other benefits; the Tribunal definitely fell in error in directing for counting the ad hoc tenure of the respondent as her regular service. The initial appointment of the respondent was only a temporary/stop-gap arrangement to cater to the urgent need, without affording any right to the respondent for regularization or other benefits like seniority.

A contention has also been raised on behalf of the petitioners that the appointment of the respondent was not in consonance with the standard recruitment rules of 1989, which require selection by the SSC for regular posts.

Mr. Nath, however, disputes the afore-noted submission and contends that the appointment of the respondent may be ad hoc or temporary, but it was in accordance with the relevant rules.

The counter argument of the petitioners is that it is very obvious from the orders of extension of the service of the respondent that such extensions were granted to the respondents, as one of the candidates recommended by the SSC had not joined. It is further contended that the respondent had accepted the terms of the ad hoc extension which clearly stipulated that such ad hoc tenure would not be counted for seniority or promotion.

The concern of the petitioners is that the direction for counting the ad hoc service period of the respondent as regular service period would only unfairly affect the seniority of other employees, who have come through the SCC channel.

Ms. Devi, learned counsel for the petitioners, however, informs this

Court that the respondent has now been promoted to the post of Upper Division Clerk, under the normal channel of promotion.

On the strength of the interim order passed by the Tribunal, the respondent was permitted to appear in the limited departmental examination which, though was concluded and appointments also were made, but one post was kept vacant awaiting the final judgment by the Tribunal and that post still remains vacant.

Mr. Nath, learned Advocate for the respondent submits that this promotion of the respondent through regular channel does not satisfy her as it, at this stage, affects her seniority. It is argued that since, in the limited departmental examination, where the respondent had appeared under the interim order of the Tribunal, she had qualified and that one post has been kept vacant, she ought to be promoted against that reserved post, which was not meant to be filled up through limited departmental examination.

The contention of Mr. Nath is that by no stretch of imagination can the initial appointment of the respondent in the year 2011 said to be a stop-gap arrangement, even though it was ad hoc or temporary. The stipulations in such orders, of course, were accepted by the respondent, but the law protects her ad hoc tenure to be counted as regular service tenure for the reason of the appointment having been made through regular channel of SSC in consonance of the rules in that regard.

We do not accept such submission advanced on behalf of the respondent for the reason of several decisions of the Supreme Court, including in ***State Of West Bengal And Ors. Etc. Etc vs Aghore Nath Dey And Ors.:*** (1993) 3 SCC 371 and ***Secretary, Minor Irrigation Department and RDS vs. Narendra***

Kumar Tripathi: (2015) 11 SCC 80, that the period of ad hoc or temporary appointment of the respondent cannot be counted as regular tenure, when her initial appointment was only a stop-gap arrangement to fill up urgent vacancies and the initial appointment letter as also the subsequent extension letters clearly indicated that it is only a temporary/ad hoc appointment and she would have no right to claim for regularization, or for seniority.

In any view of the matter, now, when the respondent stands promoted to the post of Upper Division Clerk, we do not wish to get into that issue any further.

For the reason recorded above, we find that the direction of the Tribunal was not sustainable and deserves to be set aside.

We order accordingly.

The impugned order of the Tribunal is set aside.

We say no further.

The writ petition is allowed and disposed off accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant