

GAHC020004952024



2026:GAU-NL:9

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH
WP (C)No. 186/2024

- 1.** All Nagaland Government Drivers Association (CC),
Represented by the General Secretary,
Shri Aso Ciesotsu,
L. Khel, Kohima Village,
Kohima-797001, Nagaland.
- 2.** Shri Rajesh Banwary, Driver,
Directorate of Printing And Stationary,
Nagaland,Kohima.
- 3.** Shri Gyana Lama,Driver,
Directorate of Printing And Stationary,
Nagaland,Kohima.
- 4.** Shri T. Ngathingyo,Driver,
Directorate of Printing And Stationary,
Nagaland,Kohima.

Petitioners

-Versus-

- 1.** The Commissioner And Secretary to the Government of
Nagaland,
Directorate of Printing And Stationary,
Nagaland,Kohima.
- 2.** The Home Commissioner,Government of Nagaland,
Home Department, Nagaland, Kohima-797001.
- 3.** The Director,
Directorate of Printing And Stationary,

Nagaland, Kohima.

Respondents

**BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
JUDGEMENT AND ORDER(CAV)**

Advocate for the petitioner : Ms. Mika H. Aye, Advocate.
Advocate for the respondent(s) : Mr. Imti Imsong, Additional Advocate General.
Date on which judgment is reserved : 18.08.2025
Date of pronouncement of judgment : 20.01.2026

1. Heard Ms. Mika H. Aye, the learned counsel for the petitioners. Also heard Mr. Imti Imsong, the learned Additional Advocate General appearing for the respondents.
2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioners, namely, (1)All Nagaland Government Drivers Association, (2)Shri Rajesh Banwary, (3)Shri Gyana Lama, (4)Shri T. Ngathingyo praying for issuance of a writ in the nature of *Mandamus/Certiorari* directing the state respondents to regularize the service of the petitioner Nos.2, 3 and 4 by applying the same yardstick as applied to the other similarly situated persons.

- 3.** It is also prayed that the administrative approval by letter No. PSTY/ MIS -6/ 2017 / 574 dated 04.09.2023 be modified by reserving 3 posts out of total 6 vacant posts of driver for recruitment by absorption through regularization.
- 4.** The petitioner No.1 is the All Nagaland Government Drivers Association (CC), Kohima Nagaland and represented by its General Secretary, Shri Aso Ciesotsu. The petitioner Nos. 2 and 3 were appointed as driver on contingency basis by a common appointment order No. NGP/EST/CONTI/98(PT)dated 9th February 1999 under the establishment of Directorate of Printing and Stationary, Nagaland, Kohima on contingency paid basis at a rate of Rs. 840/- per month (fixed).
- 5.** The petitioner No. 4, Shri T. Ngathingyo was appointed on casual basis as driver on 30.08.2010 by order No. NGP / EST / 141 / 09-10 / 492 under the establishment of Directorate of Printing and Stationary, Kohima at a scale of pay of Rs. 2750-78-3800-75-4400/- per month.
- 6.** In the year 2010, the petitioner No.2 and petitioner No.3, who were initially appointed on contingency paid basis, were again appointed on contract basis in the scale of pay of Rs. 2750-70-3800-75-4400/- per month for a period of one year with effect from 01.05.2010.

- 7.** On 4th September 2023, by letter No. PSTY/ MISC - 06 / 2017 / 524 dated 4thSeptember 2023, the Joint Secretary to the Government of Nagaland communicated the administrative approval for recruitment process of six vacant posts of driver in respect of Directorate of Printing and Stationary and cleared the way for advertisement of the process of recruitment for the six vacant posts of drivers in respect of the Directorate of Printing and Stationary, Nagaland.
- 8.** Ms. Mika H. Aye, the learned counsel for the petitioners has submitted that by Notification No. PSTY/ESTT- 24 / 2016 / 179 dated 20th June 2018, the state respondents had converted 6 posts of Grade-III(semi-technical) to the post of driver under the establishment of Directorate of Printing and Stationary, Nagaland and thereafter, the services of one, Neingutuo Sophei has been regularized in the year 2018. Thereafter, on 18thJune 2024, the petitioner No. 1 Association submitted representation to the state respondents praying for regularization of the services of petitioner Nos. 2, 3 and 4 in the similar manner as the regularization of services of Neingutuo Sophei was done in terms of Office Memorandum dated 22nd September 2004. She has submitted that the representation filed by the petitioner No.1 Association was forwarded to the

Government and in this respect, the correspondents were going on between the Directorate of Printing and Stationary, Nagaland and the Government. However, without waiting for the outcome of the aforesaid representation filed by the petitioner's Association, the Government has accorded administrative approval for recruitment of 6 Nos. of posts in the Directorate of Printing and Stationary, Kohima without reserving 50 % of the available posts for regularization of in serving as well/contingent employees in terms of the Office Memorandum of 2004.

- 9.** She has further submitted that in the meanwhile, two other drivers, who have attained the age of superannuation have been released by the Directorate of Printing and Stationary, Nagaland and thereby, the number of vacancy has been increased to eight vacancies under the Directorate of Printing and Stationary, Nagaland and she submits that out of these eight vacancies, four vacancies ought to be kept reserved for filling up the same by way of regularization in terms of the Office Memorandum dated 22nd September 2004.
- 10.** She has submitted that whereas the respondents have regularized the services of Neingutuo Sophei, who was doing similar nature of duty like that of petitioner Nos. 2, 3 and 4, however, the services of the said petitioners are not

yet regularized in spite of filing of the representation by the Association i.e., petitioner No. 1.

11. She submits that the petitioner Nos.2 and 3 have rendered unblemished service to the department for more than 25 years and petitioner No. 4 has rendered services for almost 14 years and the department have been utilizing their services as if they were permanent employees without giving the benefit of regularization to them. She submits that utilizing services of casual employees for a long period as if they were permanent employees amounts to exploitation and violation of the fundamental rights of the petitioners under Article 21 of the Constitution of India. She also submits that discriminating the petitioners by not regularizing their service, whereas, similarly situated person Mr. Neingutuo Sophei services where regularized amounts to violation of fundamental right of the petitioner guaranteed to them under Article 14 of the Constitution of India.

12. She, therefore, submits that the respondent authorities may be directed to regularize the services of the petitioner Nos. 2,3 and 4 and also modify the administrative approval letter dated 04.09.2023 by reserving three vacant posts of driver for regularization.

13. In support of her submissions, the learned counsel for the petitioners has cited following rulings:-

- i. ***"Firat Ram Yadav and others versus State of Chhattisgarh"*** reported in ***"2023 SCC Online Chh 5393;"***
- ii. ***"Jaggo versus Union of India & Ors."*** reported in ***"2024 SCC Online SC 3826;"***
- iii. ***"Shripal & Anr. versus Nagar Nigam, Ghaziabad"*** reported in ***"2025 SCC Online SC 221;"***
- iv. ***"Raman Kumar & Others versus Union of India"*** reported in ***"2023 SCC Online SC 1018."***

14. On the other hand, Mr. Imti Imsong, the learned Additional Advocate General, Nagaland has submitted that the administrative approval for recruitment process for six vacant posts of drivers under the Directorate of Printing and Stationary was obtained on 04.09.2023 and thereafter, the department has been in the process of establishing a departmental recruitment board and completing necessary formalities for recruitment. However, he submits that the department has received one representation from All Nagaland Government Drivers Association, Kohima on 18.06.2024 praying for regularization of services of three of their members working under the directorate. The said members are the petitioner Nos.2, 3 and 4 in this writ petition. After receiving the representation, the department had forwarded the same to the Government on 27.06.2024

and in respect of the said representation, correspondence is going on between the department of Printing and Stationary, and the Home Department of the Government and the department of Printing and Stationary, is awaiting a response from the Government in respect of the representation of the petitioner No. 1 forwarded to it by the department.

15. I have considered the submissions made by learned counsel for both sides and have gone through the materials available on record. I have also gone through the rulings cited by learned counsel for the petitioner in support of her submissions.

16. It appears that the petitioners in this case are referring to the Office Memorandum dated 22.09.2004 for regularization of their services. However, it appears that in the meanwhile, the Government has also adopted new criteria for regularization by issuing the Office Memorandum dated 17.0.2015. The scheme of regularization contemplated in the Office Memorandum of 2004 is to carry out regularization against 50% of the earmark vacancy based on the criteria of merit-cum-seniority.

17. Whereas, the Office Memorandum dated 17.03.2015 contemplates regularization of only those employees who have completed 30 years or more of continuous service as

of 01.01.2015. Though, there is no indication in the Office Memorandum dated 17.03.2015 that it supersedes the Office Memorandum of 2004, however, by necessary implication, it may be presumed that the Office Memorandum of 2015 has replaced the Office Memorandum of 2004 in so far as new eligibility criteria for regularisation has been incorporated in the 2015 Office Memorandum.

18. It appears that though by letter dated 4th September 2023, the Joint Secretary to the Government of Nagaland has communicated to the Director of Printing and Stationary, Nagaland, the administrative approval for recruitment process of six vacant posts of drivers in respect of Directorate of Printing and Stationary, however, there is no material on record indicating that any advertisement in pursuant to the said administrative approval has been issued. It also appears that the Government is still in the process of considering the representation dated 13.06.2024, filed by the petitioner No.1 Association, praying for regularization of petitioner Nos. 2, 3 and 4, and the Government has not taken any final decision on the same yet.

19. Since the Government of Nagaland have adopted a policy for regularization of work-charged and casual employees and have issued Office Memorandum in the year 2004 as

well as in the year 2015, hence, for regularization of services of any work- charged employee, the criteria laid down in the Office Memorandum, which is in force, shall have to be fulfilled.

20. Even if it is assumed that the stipulation contained in 2004 Office Memorandum regarding reservation of 50 % of regular vacancies for absorption of work-charged and casual employees is still in force, the Government department where vacancy has arisen, has to first ascertain as to whether are there any eligible work-charged and casual employees, who may have to be considered as per the prevailing Office Memorandum. If any such eligible employee is there, then any future vacancy to be advertised in the said department must take into consideration the said fact and reserve requisite numbers of vacant post for absorption by way of regularisation in terms of the prevailing Office Memorandum in that respect. The ceiling for such reserved post may be as indicated in the Office Memorandum dated 22.09.2004 i.e., 50 % of the regular vacancy.

21. In the instant case, as a representation has been pending before the government regarding prayer for regularization of petitioner Nos. 2, 3 and 4, the state respondents are

directed to expeditiously dispose of the said representation in terms of prevailing Office Memorandum and thereafter, if required reserve such posts for regularization of those candidates who are found to be eligible for absorption by way of regularization in terms of prevailing Office Memorandum. The ceiling for the said reservation may be 50 % of the available regular vacancy in terms of 2004 Office Memorandum.

22. As the above mentioned six vacant posts of driver are yet to be advertised and Government is yet to take any decision on the representation filed by petitioner No. 1, this court is of considered opinion that no further directions are required to be issued beyond what has already been stated in the foregoing paragraph.

23. With the above directions, this writ petition is disposed of.

24. The Registry of the Principal Seat is directed to immediately send this case record to the Registry of Permanent Bench of this High Court at Kohima.

JUDGE

Comparing Assistant