

(2008) 05 GAU CK 0069
In the Gauhati High Court

C. Lalropuia and Others

APPELLANT

Vs

State of Mizoram and Others

RESPONDENT

Date of Decision : 07-05-2008

Acts Referred:

Citation : (2008) 2 GLT 842

Hon'ble Judges : H. Baruah, J

Bench : Single Bench

Judgement

H. Baruah, J.—Heard Mr. Ricky Gurung, learned Counsel for the petitioners. Also heard Mrs. Helen Dawngliani, learned Govt. Advocate for the respondents.

2. By this writ petition, the writ petitioners have sought for regularization of their services in accordance with the provisions of 2000 Scheme with all consequential benefits. The case of the writ petitioners briefly stated is that they are presently working as Muster Roll peons under the Secretariat Administration Department (for short SAD) of the Govt. of Mizoram under the administrative control of the respondent No. 2. The writ petitioners Nos. 1, 2, 3, 4, 5 and 6 were appointed as Muster Roll peons with effect from 25.08.1999 vide order dated 08.02.2000, while writ petitioners Nos. 7 and 8 were appointed as above vide order dated 14.09.1993 and 22.04.1999 respectively. Since all the petitioners have been discharging their duties as such for more than seven years, as per Clause-4 of the said scheme all are entitled for regularisation in a corresponding regular post. It is further contended that the writ petitioners are qualified to be appointed as such as required under Clause 4 of the scheme. Despite continuance in the service for seven years, it is alleged that the respondent authorities have not considered their case till date. The writ petitioners, therefore, have made a prayer before this Court to issue an appropriate writ for regularisation of their services in corresponding regular posts with all consequential benefits.

3. Mr. Ricky Gurung, learned Counsel for the petitioners while arguing, has contended inter alia that since the writ petitioners have been discharging their

duties as Muster Roll peons since the date of their appointments for a continuous period of seven years, they are entitled for regularisation as per the provision of Clause-4 of the Scheme, 2000. Referring to the provisions of Clause-4 of the scheme, he has submitted that the writ petitioners are all qualified to be appointed in a corresponding regular post. The educational qualification prescribed in the relevant Recruitment Rules, the period of service, performances are all in the favour of the writ petitioners.

4. Mrs. Helen Dawngliani, learned Govt. Advocate for the respondents inter alia contended that a Muster Roll employee can be appointed continuously for a period of 89 days and he/she cannot be appointed beyond the said period. Since the writ petitioners have failed to place before this Court any document or order showing that they are in the engagement of the Government (respondent No. 3) for a continuous period of seven years. Rule 4 of the Government of Mizoram Scheme, 2000 cannot be invoked in their favour. Mrs. Dawngliani in support of her contention referred to the Office Memorandum dated 10th May 1996 issued vide Memo No. A. 11019/1/91-P & AR (ARW dated 16.05.1996. The Government of Mizoram Scheme, 2000 came into existence in the year 2000 while this Office Memorandum (Annexure-1 to the affidavit-in-opposition by the respondent) was made on the 10th day of May 1996. Mr. Ricky Gurung, learned Counsel for the writ petitioners while arguing the case also concedes that no document has/have been filed to substantiate the fact of continuous service for seven years except the appointment letters. The appointment letters kept with record cannot mean that they are in the continuous service of the respondent authority and beyond the period of seven years as they were all engaged/appointed as Muster Roll peons. Unless some acceptable documents are placed before this Court to make an assessment about the fact of continuation for a period of seven years, it would not be appropriate to say that the writ petitioners are in the continuous service beyond seven years.

5 In the facts situation it is directed that if the petitioners and other eligible employees under the grade though not approached this Court for the purpose are entitled for regularisation of their job against corresponding regular post, their cases will be considered by the respondent authority strictly in terms of the aforesaid 2000 Scheme issued under Notification dated 23.03.2000 subject to their suitability. The writ petitioners are accordingly directed to submit a copy of this writ petition along with the relevant documents and copy of this order to the respondent authority which shall be treated as representation, who shall consider their respective cases along with others if approached within a period of four months after receipt of the same. It is further made clear that regularisation of the petitioners' service shall be considered on the basis of seniority. With the aforesaid directions, this writ petition stands disposed of.