
(2016) 11 GAU CK 0081
In the Gauhati High Court
Case No : W.P(C) No. 136 of 2016

Sh. Joseph Lalchhuanawma	Vs	APPELLANT
State of Mizoram		RESPONDENT

Date of Decision : 29-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 GauLT 494

Hon'ble Judges : S. Serto, J.

Bench : Single Bench

Advocate : Mr. Lalbiaknunga Hnamte, Mr. C. Lalhruaitluanga, Mr. B. Vanlalnunkima and Mr. J.N. Bualteng, Advocates, for the Petitioners; Mr. A.K. Rokhum, Addl. A.G, for the Respondents

Final Decision : Disposed Off

Judgement

S. Serto, J. (Oral)—None appears for the petitioners and no one has mention anything on their behalf. However, Mr. A.K. Rokhum, learned Addl. Advocate General, Mizoram appears on behalf of the respondent Nos. 1 to 4 and he is heard.

2. The respondents have filed their affidavit-in-opposition therefore, pleading is complete. As such, I proposed to dispose the petition on merit as follows.

3. The case of the petitioners is that they were appointed as Drivers on contract basis in the department of Taxation against sanctioned post and regular vacancy but they have not been regularized in spite of the scheme made by the Government for regularization of Contract Employees in the Government.

4. According to the petitioners, the petitioner No. 1 was appointed vide Government Order No. A. 12031/3/2005-COMTAX, dated 24.11.2005 and the petitioner Nos. 2 to 4 were also appointed in the year 2006 vide Government Order No. A. 12031/3/2005-COMTAX, dated 19.04.2006 as drivers on contract basis in the Department of Taxation, Government of Mizoram.

5. That while their service was extended from time to time, the Government of Mizoram made a scheme for regularization of Contractual Employees in the year 2008, which is called :

"The Government Mizoram Regularization of Contract Employees Scheme, 2008".

The relevant para is Para 4 Clause 3, which reads as follows :

"Any persons who has been engaged on contract basis in the department for at least 5 (five) years shall be eligible for regularization in the existing post against which he/she has been engaged provided that such initial has been done through the Departmental Promotion Committee (DPC) and he/she possess the required educational and other qualification prescribe in the relevant recruitment rule.

Provided that such regularization shall be considered in order of the length of service in the contract employment.

Provided further that such regularization shall be subject to satisfactory performance duly recorded in the performance records or in their similar report for the last 5 (five) years, as may be maintained by the department concerned."

6. It is stated further by the petitioners in their petition that a Departmental Promotion Committee was duly constituted for regularization of contract employees in the Taxation Department including date of the service of the petitioners in the year 2011. The committee held their sitting on 21 & 22 of June, 2011. The committee found the petitioners qualified for appointment to their respective post of driver therefore, recommended their names for the same. Proceedings of the DPC is at Annexure-111 of the petition. Following the recommendation of the same DPC, persons who were appointed to the post of Inspector of Tax in the same year as the petitioners were regularized but the petitioners' case was left out. So far, despite their representations submitted to the authorities concerned nothing has been done for their regularization. Therefore, the petitioners have come to this Court praying for issuance of writ of mandamus or any appropriate writ or direction or order for regularization of their service as drivers in the department of Taxation as per the 2008 Scheme and also on the ground that they should be given equal treatment as given to the Inspectors who were similarly appointed in the same year. As stated above, the respondents have filed a joint affidavit-in-opposition. There is no contention from the side of the respondents on the points raised by the petitioners except that the petitioners have not completed 5 (five) years of service from the date they were re-appointed on contract basis in pursuance of the recommendation of the DPC to be illegible under the scheme of regularization.

The second point raised by the respondents is that the case of 5 (five) Inspectors is slightly different from the case of the petitioners.

7. On careful consideration of the scheme prepared and notified by the Government of Mizoram, and the way how the service of other contract employees have been regularized it appears that the Government wants to

regularized service of those contract employees who have completed 5 years of service provided they are found qualified and suitable by a duly constituted DPC. In this case, there is no contention as to the fact that the petitioners case have been examined by a duly constituted DPC and they have been recommended. The only contention raised is that they have not completed 5 (five) years of service from the date they were recommended by the DPC duly constituted in the year 2011. The contention appears to be quite irrational and unreasonable keeping in view the purport and intent of the scheme of regularization of service of contract employees and the fact that the petitioners have been working since 2005 & 2006. It would not only be unfair but unreasonable to deny the benefits of the years they have served. In the case of the petitioners, DPC was necessary only to see whether they met the requirement of the recruitment rules and they are suitable or not. They have worked for more than 5 years as stated and they have been found suitable. That apart, when the service of the Inspectors who were recommended by the same DPC have been regularized, there is no reason why the petitioners should not be treated in the same manner. To deny the same treatment to people who are similarly situated would amount to discrimination.

8. In view of the reasons stated above, the respondents are directed to consider regularization of the petitioners in terms of the Scheme of 2008 within a period of 3 (three) months from the date of receipt of a copy of this Order.

Accordingly, the writ petition stands disposed.