
(2025) 10 MEG CK 1280
In the Meghalaya High Court
Case No : Writ Petition (C) No.331 Of 2025

Shanborlang Kurbah

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 31-10-2025

Acts Referred:

Citation : (2025) 10 MEG CK 1280

Hon'ble Judges : Soumen Sen, CJ;W. Diengdoh, J

Bench : Division Bench

Advocate : P. Yobin, A. Dkhar, Dr. N. Mozika, K. Gurung

Final Decision : Disposed Of

Judgement

Soumen Sen, CJ

1. The petitioner was appointed to the post of Lab Assistant at National Institute of Fashion Technology (NIFT), Shillong Campus on short-term contract basis on 28.06.2019 on terms and conditions, which inter alia, includes the following terms:

1. Your employment will be for a period of 6 months from the date of your joining or till the appointment of regular incumbent whichever earlier.

2. You will be paid a consolidated salary of Rs. 19,900 (Rupees Nineteen Thousand Nine Hundred Only) per month w.e.f. your date of joining. No other allowances/benefits will be admissible.

2. Apprehending that the service of the petitioner would be terminated till a regular incumbent is appointed, the petitioner approached the Central Administrative Tribunal, Guwahati Bench which was registered as O.A. No.043/00141/2021. In the said Original Application, a miscellaneous application was filed being Misc. Application No.043/00075/2021. The reliefs prayed for in the original application, inter alia, includes the following:

8.1 That the respondents be directed to issue a proper appointment letter by way of modification of the Appointment Letter dated 14.08.2019 (annexure-7) for the remaining tenure of 3 years as well as to pay the other benefits in terms of the advertisement dated 28.09.2018 w.e.f. his date of initial appointment i.e. 14.08.2019.

8.2 That the Hon ble Tribunal be pleased to set aside and quash the impugned recruitment process initiated vide recruitment Notice No. NIFT/RECT/04/2020-21 so far 1(one) post of Lab Assistant AD Department is concerned which is already held by your Applicant out of the 2 (two) posts as mentioned in the said impugned Recruitment Notice No. NIFT/RECT/04/2020-21 (Annexures-A2 & A3 to the Original Application) and

8.3 That the Hon ble Tribunal be pleased to set aside and quash the letter dated 17.02.2021 issued by the Joint Director (I/C), National Institute of Fashion Technology, Shillong Campus (Annexure-A1).

8.4 That the Hon ble Tribunal be pleased to direct the Respondents to let the Applicant to continue at his present post as Lab Assistant in the Accessory Design Department of the National Institute of Fashion Technology, Shillong Campus for five years from his date of joining i.e. from 08.07.2019, and

8.5 Any other relief(s) as this Hon ble Tribunal may deem fit and proper.

3. The contention of the petitioner before the Tribunal was that he was working as Lab Assistant in the Accessory Design Department in the Shillong Campus of the NIFT and in terms of the recruitment notice dated 28.09.2018, his service is secured at least for five years and in any event having regard to the disjunctive clause in the letter of appointment till a regular incumbent is appointed.

4. The respondents contested the said proceedings and in their written statement submitted that as per the recruitment notice dated 28.09.2018 for appointment of Lab Assistant on long-term contract basis, the eligibility criteria was full time diploma in fitter trade in ITI/Mechanical Engineering from any recognised institute with seven years industry/teaching experience . The petitioner admittedly was lacking the basic criteria of the required years of experience as on the date of the advertisement, but due to exigencies, he was appointed so that the Institute may continue to function. Subsequently, another recruitment notice dated 23/24.07.2020 was published for the post of Lab Assistant for a contract period of three years. In the meantime, recruitment rules for the post in question was changed and the said recruitment notice dated 23/24.07.2020 was cancelled and withdrawn on 25.01.2021 due to administrative reasons as new recruitment rules was notified on 19.11.2020. As per the revised recruitment rules, the eligibility criteria for the post of Lab Assistant are as under:

(i) Age limit - 27 years

(ii) Full Time Diploma in Fitter Trade from ITI/Mechanical Engineering from any recognised Institute.

(iii) Experience - 7 years industry/teaching experience

5. The justification for denying the opportunity and the benefit of the petitioner to continue till a regular incumbent for the post is appointed was challenged on the basis of the judgment of the Hon ble Supreme Court in *Mohinder Singh Gill & anr v. Chief Election Commissioner* (1978) 1 SCC 405 as it was contended that the letter of cancellation under termination should only be taken into consideration while deciding such letter of termination and by a written statement, the respondents cannot furnish new reasons or grounds in justification for such termination. It seems to have been further argued that the respondents cannot resort to the recruitment rules published subsequently inasmuch as the new recruitment rules can have prospective effect only and in support thereof, decision of the Apex Court in the case of *Mahendran & ors v. State of Karnataka & ors* (1990) 1 SCC 411 was relied upon. The main contention of the respondents before the Tribunal appears to be that the nature of employment of the petitioner being contractual in nature, the petitioner cannot have any vested right for appointment or any legal right to claim absorption and all similar reliefs. The decision of the Apex Court in *GRID Co. Ltd. v. Shri Sadanand Dholoi & ors* in Civil Appeal No.11003 of 2011 was relied upon for the proposition that contractual appointments work only if the same are mutually beneficial to both the contracting parties and not otherwise. Moreover, it appears to have been argued that the terms and conditions were quite exquisite and it does not give any right to the contractual employee to work for an indefinite period of time or that the appointing authority would have prohibited from making fresh recruitment rules for the self-same post.

6. The issue involved is simple whether the petitioner being a contractual employee can rely upon the disjunctive clause in the letter of appointment dated 28.06.2019 to continue till the appointment of regular incumbent. One cannot lose sight of the fact that the appointment has its origin in the recruitment notice dated 28.09.2019 and admittedly the present petitioner at the time of his appointment was not qualified. He did not fulfil the eligibility criteria. This fact was well established. The administrative exigencies had resulted in his appointment. In that perspective it can be safely concluded that he did not acquire any right at all. The disjunctive clause would also not only benefit to the petitioner having regard to the fact that even if the said condition is interpreted in favour of the petitioner, it will stand terminated beyond five years as the original recruitment notice contemplates appointment for a period of five years. The petitioner had worked till June, 2024 by reason of an interim order passed at the time of admission of the O.A. There is a short fall of only 10 days.

7. In the aforesaid conspectus of facts, we do not find any reason to interfere with the order passed by the learned Tribunal.

8. The learned counsel for the petitioner submits that in terms of the new recruitment rules and the notification he would be eligible as he had completed seven years of service. The respondents do not dispute that by reason of

passage of time and the petitioner having work in the Institution for five years continuously would be eligible for the said post but the difficulty would be that he would be overage. It will be for the respondent authorities to consider whether the age bar so far as the petitioner is concerned can be waived by taking into consideration his performance during the period of his service. We make it clear that it should be entirely at the discretion of the respondent authorities and this order should not be construed as a direction upon the respondent authorities to condone the age bar.

9. With the aforesaid observations, the writ petition stands disposed of.