

(2006) 03 GAU CK 0077
In the Gauhati High Court

Thiyam Kula Singh and Anr.

APPELLANT

Vs

State of Manipur and Anr.

RESPONDENT

Date of Decision : 23-03-2006

Acts Referred:

Citation : (2006) 03 GAU CK 0077

Hon'ble Judges : T.Nanda Kumar Singh, J

Bench : Single Bench

Advocate : Th.Ibohal Singh, B.Bidiyalaxmi Devi, Advocates appearing for Parties

Judgement

1. Heard Ms. B. Bidiyalaxmi Devi, learned counsel appearing on behalf of the petitioners as well as Mr. Th. Ibohal Singh, learned G.A. appearing on behalf of the respondents.

2. By this writ petition, the writ petitioners 2(two) in number are seeking the relief for a direction to the respondents to regularize their services in the post of AAO/equivalent with effect from the date of their initial ad hoc appointment, i.e. w.e.f. 3.2.1981. The petitioners 2 in number are seeking for retrospective regularization of their ad hoc service as Asstt. Soil Conservation Officer/AAO/equivalent basing on the fact that the petitioner no.1, Shri Thiyam Kula Singh, entered into the government service as Field Assistant in the Department of Agriculture in the month of November, 1964 and so also the petitioner no.2, Shri Potsangbam Ibochou Singh, entered into the government service as Field Assistant in the same department, i.e. the Agriculture Department, in the month of November, 1965. After serving a number of years in the post of Field Assistants, they, i.e. the petitioners, and 23 others were promoted to the post of Assistant Soil Conservaton Officer/Asstt. Hort./APP on adhoc basis for a period of six months from the dates of their joining or till the posts are filled on regular basis vide order of the Govt. of Manipur being No.23 A/169/80Agri dated, Imphal, the 3rd February, 1981, a copy of which is available at AnnexureA/2 to the present writ petition.

3. The two writ petitioners, in Para 6 in the present writ petition, have specifically mentioned that from 3.2.1981 they had been continuing to serve on ad hoc basis as Asstt. Agriculture Officer/ equivalent without any break as their terms of ad hoc appointment had been extended from time to time till their cases were considered for regularization by a ClassIII DPC held on 17.12.1991. On the recommendation of the said ClassIII DPC held on 17.12.1991 read with Government letter No.80 Misc.72/90Agri (Temp) dated 4.1.1992, the petitioners and 10(ten) others were appointed on regular basis to the post of Assistant Agriculture Officer/Equivalent against promotion quota in the joint cadre of Agriculture/Horticulture & Soil Conservation/CADA with effect from 17.12.1991 vide orders of the Director of Horticulture and Soil Conservation, Manipur being No.DH&SCI/72/82, Imphal, the 15th January, 1992. It is said that as the long and continuous service of the petitioners as ad hoc Asstt. Soil Conservation Officer/Asstt. Hort./APP from the date of their initial ad hoc appointment, i.e. w.e.f. 3.2.1981 to 16.12.1991, are not be taken into account for any purpose such as pensionary benefits and also for counting qualifying service for pension, they approached this court by filing the present writ petition.

4. In reply to the said para6 of the writ petition in which the petitioners had taken the specific plea that they had to serve as ad hoc Asstt. Soil Conservation Officer/Asstt. Hort. /APP/equivalent since the date of their initial appointment on ad hoc basis, i.e. w.e.f. 2.1981 to 16.12.1991, the respondents in para3 of their affidavitinopposition stated that the petitioners have not annexed any extension order of ad hoc appointments showing the continuity of their services to the post of AAO/Equivalent as the ad hoc promotion order No.23A/169/80Agri. Dated 2.1981 was only for a period of six months vide AnnexureA/1 to the present writ petition.

5. From the perusal of para3 of the affidavitinopposition, it is clear that the respondents are not specifically denying the assertion of the present writ petitioners that they had been continuing to serve as AAO/Equivalent on ad hoc basis since the date of their initial ad hoc appointment, i.e. 3.2.1981 to 16.12.1991. It is fairly well settled principle of law that if there be a specific plea taken in the writ petition, it shall be specifically denied and evasive denial shall not be sufficient but the respondents 1 and 2 in their affidavitinopposition do not specifically deny the fact of continuation of the petitioners' ad hoc service as AAO/equivalent from the date of their initial ad hoc appointment, i.e. 3.2.81 to 16.12.1991.

6. The learned counsel appearing for the petitioners in order to substantiate the case of the petitioners has drawn the attention of this court to the earlier judgment and order of this court (1) dated 4.3.1993 passed in three writ petitions, i.e. C.R.No.108 of 1993, C.R.No.107 of 1993 and C.R.No.109 of 1993 filed by the three writ petitioners who are similarly situated with the present writ petitioners inasmuch as those writ petitioners were also initially appointed by promotion to the posts of AAO/equivalent on ad hoc basis and later on their ad

hoc services were regularized by an order of the Govt. of Manipur. By the common order of this court dated 4.3.1993 passed in C.R.No.108 of 1993, C.R.No.107 of 1993 and C.R.No.109 of 1993, this court had directed the respondents to regularize the services of those petitioners with effect from the date of their initial ad hoc appointment. Similarly, this court also passed another judgment and order dated 20.7.1999 in W.P(C) No.876 of 1999 filed by two writ petitioners who are also similarly situated with the present writ petitioners to the effect that the period of ad hoc employment w.e.f. 8.11.1988 to 7.4.1999 shall be counted as regularized services for the purpose of enabling the writ petitioners to get pensionary benefits. The copies of the earlier judgment and orders of this court dated 4.3.1993 and 20.7.1999 are available at AnanexuresA/3 and A/4 respectively in the present writ petition.

7. Keeping in view of the facts and circumstances of the present case in the present writ petition supported by affidavit and also the earlier judgment and orders of this court dated 4.3.1993 and 20.7.1999, I have no hesitation to come to the conclusion that the present writ petitioners are also entitled to get the similar relieves granted by this court by passing the earlier judgment and orders mentioned above. Accordingly, the respondents are directed to regularize the services of the petitioners with effect from their initial ad hoc appointment as Asst. Soil Conservation Officer/Asstt. Hort. /APP w.e.f. 3.2.1981 for enabling them to get their retirement benefits but not for seniority purposes. Necessary orders in this regard shall be issued by the respondents within a period of 3(three) months from the date of receipt of this judgment and order.

8. To the extend mentioned above, the present writ petition is allowed. Parties are to bear their own costs.