



# IN THE HIGH COURT OF SIKKIM

## ORDER SHEET

Writ Petition (Civil).....No. 31 of 2005


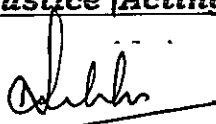

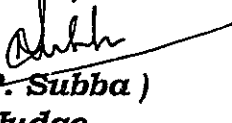
Ongay Sherpa.....Petitioner / Appellant

Versus

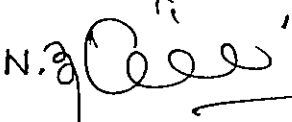

State of Sikkim & Others.....Respondent s

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	26.07.2005	<p>Heard Mr. B. Sharma, learned Senior Counsel assisted by Mr. J. K. Kharka, learned counsel for the petitioner. Also heard Mr. J. B. Pradhan, learned Government Advocate assisted by Mr. Karma Thinlay, learned Assistant Government Advocate. <b>for the State - respondents.</b></p> <p>It is submitted at the Bar by Mr. Sharma, learned Senior Counsel, that the bill so far submitted by the petitioner had already been duly accepted by the authority concerned, and apart from that, the case of the petitioner is genuine, inasmuch as, he is entitled to get the extra labour charge for high altitude as contained in the related bill in terms of the related Government Notification published in the Sikkim Government Gazette Extraordinary dated <b>07.01.2004</b>. We have perused it. It appears to us that this matter can be disposed finally on its own merit on the next date in view of the decisions of the Apex Court as well as the</p>	



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		<p>decisions of different High Courts including the Gauhati High Court, and, as such, this Court shall make an endeavour to dispose of this case finally on its own merit on <b>03.08.2005</b>. In the meantime, the respondent - Government is at liberty to file counter-affidavit, if so advised, and the learned Government Advocate is also at liberty to obtain instructions in the matter.</p> <p> ( <b>N. Surjamani Singh</b> ) <b>Chief Justice (Acting)</b></p> <p> ( <b>A. P. Subba</b> ) <b>Judge</b></p>	
2.	03/08.2005	<p>Heard Mr. B. Sharma, learned Senior Counsel assisted by Mr. B. Pokhrel and Ms. Binita Sharma, learned counsel for the petitioner. Also heard Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Government Advocate and Mr. Karma Thinlay, learned Assistant Government Advocate for the State - respondents.</p> <p>List this case on 5.9.2005 for necessary orders. In the meantime, the State - respondents are allowed to file counter-affidavit.</p> <p> ( <b>N. Surjamani Singh</b> ) <b>Chief Justice (Acting)</b></p> <p> ( <b>A. P. Subba</b> ) <b>Judge</b></p>	



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3.	05.09.2005	<p>Heard Mr. B. Sharma, learned senior counsel assisted by Miss Reeta Sharma, learned counsel for the petitioner. Also heard Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan and Mr. Karma Thinlay, learned Government Advocates for the State – respondents.</p> <p>Upon hearing the learned counsel appearing for the parties at some length, Mr. Sharma, learned senior counsel in his usual frankness submitted that the petitioner desires to withdraw the writ petition with liberty to approach the appropriate forum for arbitration in terms of the related work order. In our considered view, the prayer made by the petitioner is reasonable and, accordingly, <sup>can</sup> it is closed on withdrawal with liberty to the writ petitioner to approach the appropriate forum for arbitration.</p> <p style="text-align: center;"> ( N. Surjamani Singh ) <u>Chief Justice (Acting)</u></p> <p style="text-align: center;"> ( A. P. Subba ) <u>Judge</u></p>	