

# THE HIGH COURT OF MEGHALAYA AT SHILLONG.

WP(C) No. 291 of 2016

Shri. Kristar Sangma,  
S/o (L) Kamjing Sangma,  
R/o Williamnagar, PO & PS:  
Williamnagar, East Garo Hills  
District, Meghalaya.

... **Petitioner**

**- Versus -**

1. Commissioner & Secretary,  
Personal Department,  
Government of Meghalaya,  
Shillong.
2. Chief Engineer, P.H.E,  
Government of Meghalaya,  
Shillong.
3. The Executive Engineer,  
R.W.S, Simsangre Division,  
P.H.E., Williamnagar.
4. Accountant General,  
State of Meghalaya,  
Shillong

... **Respondents.**

**BEFORE**

**THE HON'BLE MR JUSTICE SR SEN**

For the Petitioner : Mrs. S.G. Momin, Adv.

For the Respondent s : Mr. K. Barua, GA.

Date of hearing : **26.07.2017**

Date of Judgment & Order : **26.07.2017**

## JUDGMENT AND ORDER (ORAL)

Heard Mrs. S.G. Momin, learned counsel for the petitioner as well as Mr. K. Barua, learned State counsel.

2. The brief fact of the petitioner's case in a nutshell is that:

*"The Petitioner was appointed in the post of a Driver in P.H.E. Department in the year 1978 by the Executive Engineer PHE Division of Simsanggre and thereafter he continued his service uninterrupted. During his period of service he was granted all the benefits available to a regular employee like House Rent Allowances, Leave Travel Concession and Annual Increment Etc. However on attaining the age of superannuation he retired on 31.12.2013 and thereafter though demanded his pensionary and other benefits are not released on the ground that his service was not regularized.*

*The Petitioner states that in view of the facts and circumstances and in view of the Notification dated: 22.06.1989 his service stands regularized and denial of Pensionary benefits to the Petitioner is violative of Article 21 of the Constitution of India and hence this Petition under Article 226 of the Constitution of India."*

3. The learned counsel for the petitioner submits that the petitioner was appointed in the post of Driver in PHE Department, Government of Meghalaya in the year 1978 on adhoc basis and ultimately retired after completing the service of 35 (thirty five) years 4(four) months and 10(ten) days, but unfortunately after retirement he was not given his pensionary benefits on the pretext that his service was not regularized.

4. In reply, the learned State counsel submits that initiatives for regularization should have been taken by the concerned Department, where he was serving, within a period of 1(one) year from the date of issuance of the Office Memorandum No. Per (AR) 193/88/19, dated Shillong, the 22<sup>nd</sup> June, 1989 issued by the Personnel & Administrative Reforms (B) Department, Government of Meghalaya, however, the same was not followed by the petitioner.

5. After hearing the submissions advanced by the learned counsel for the parties, I am of the considered view that, to forward the name of an employee as submitted by the learned State counsel, it is the duty of the Government and not the petitioner no matter what the Department he works, but for the negligence of the Department i.e. PHE the petitioner should not suffer. I also could not understand why a person who has been serving 35 (thirty five) years 4(four) months and 10(ten) days, after retirement he was denied the pensionary benefits, which definitely affects his right.

From the Annexure-9 Page 24 and 25 of the writ petition, it was noticed that the Chief Engineer, PHE, Meghalaya, Shillong has issued a letter dated 7<sup>th</sup> June, 2016 for regularization of the service of the petitioner Shri Kristar Sangma, wherein it appears that no action has been taken and the Government has totally forgotten the service rendered by the petitioner, which is highly illegal. However, I am not taking any drastic action at this stage, but I expressed my anguish and displeasure over the whole matter. Hence, I direct the PHE Department and other Department connected with regularization of the service to regularize the service of the petitioner from the date when he was entitled for it and further directed the Department concerned to prepare his pensionary benefits and to release it from the date when he retired with 6% interest as the petitioner retired on 2013. The PHE Department is also further directed that the interest portion should be recovered from the salary of the person who is responsible for such

unwanted negligence and this whole exercise to be completed within 2(two) months from the date of receipt of this judgment and order.

6. With this observation and direction the instant writ petition is allowed and stands disposed of.

**JUDGE**

***D. Nary***