

WP(C) No. 458 of 2019 with
WP(C) No. 459 of 2019
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WP(C) No. 461 of 2019
WP(C) No. 462 of 2019
WP(C) No. 463 of 2019
WP(C) No. 464 of 2019

Date of order: 23.10.2019

W. Marboh	Vs.	North Eastern Hills University (NEHU) & Ors.
Plester Kharmuid	Vs.	North Eastern Hills University (NEHU) & Ors.
Tonic Thawmuit	Vs.	North Eastern Hills University (NEHU) & Ors.
Baristerwell Surong	Vs.	North Eastern Hills University (NEHU) & Ors.
Polin Thabah	Vs.	North Eastern Hills University (NEHU) & Ors.
Swarensing Nongbri	Vs.	North Eastern Hills University (NEHU) & Ors.
Charles Lyngdoh	Vs.	North Eastern Hills University (NEHU) & Ors.

Coram:

Hon'ble Mr. Justice Ajay Kumar Mittal, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Kar, Adv.

For the Respondent(s) : Mr. S. Sen, Adv.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Oral:-

1. This order shall dispose of WP(C) Nos. 458, 459, 460, 461, 462, 463, and 464 of 2019 as according to the learned counsel for the parties, the facts and issues involved are similar. The facts are extracted from WP(C) No. 458 of 2019.

2. In WP(C) No. 458 of 2019, the petitioner has approached this Court under Article 226 of the Constitution of India impugning order dated 28.08.2019 whereby his representation seeking regularisation of his service (Annexure-11) has been rejected. A prayer has been made for issuance of a

direction to the respondents to frame a scheme for regularisation as per the decision in *Umadevi's case* granting service benefits to the petitioners.

3. Learned counsel Mr. S. Sen has put in appearance on behalf of the respondent-University and submitted that the petitioners in these writ petitions had earlier filed WP(C) 113 (SH) of 2011 which was dismissed on 03.05.2013 claiming the same relief of regularisation. Learned counsel relied upon paragraph 4 of the order dated 03.05.2013 wherein, it had been recorded that the petitioners were appointed as casual workers depending on the availability of works and not against any sanctioned posts and while appointing the writ petitioners even on casual basis, the procedure prescribed under the Constitutional Scheme of public appointment were not followed. Paragraphs 4 and 5 of the order dated 03.05.2013 reads thus:-

“4. The respondents filed their joint affidavit-in-opposition, wherein it is stated categorically that the petitioners had been appointed as Casual workers depending on the availability of works and not against any sanctioned posts or vacancies. Further, while appointing the petitioners even on casual basis, the procedure prescribed under the Constitutional Scheme of public appointment were not followed. The petitioners have not been serving continuously as there were some breaks in their services.

5. From the pleaded case of the petitioners in the writ petition, nature of their engagements and the affidavit-in-opposition filed by the respondents, it is clear that the petitioners have been engaged as casual employees or daily wage basis from a certain period without following the procedure prescribed under the Constitutional Scheme of public appointment. Over and above, the petitioners were not appointed/engaged in a sanctioned post but they were engaged in daily wage basis without following the required procedure for public employment as their services were needed to meet the needs of the Institution. The services of the petitioners come to an end when it is discontinued. It is fairly settled that the process of recruitment or employment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be

the rule. But in this instant case, there are no regular posts or regular vacancies for regular appointment of the petitioners and therefore, there is no question of filling up of regular vacancies or regularisations of the casual services of the petitioners. However, this Court in the following paras will discuss as to whether the case of the petitioners are covered by Para-53 of the Umadevi's case (supra)."

4. In view of the above, the petitioners are precluded from approaching the court again for similar relief which had been declined on earlier occasion with the finding against them as noticed above. Accordingly, prayer made in the writ petitions cannot be acceded to. Consequently, the writ petitions are dismissed.

Meghalaya
23.10.2019
"Sylvana PS"



(Ajay Kumar Mittal)
Chief Justice