

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C)No.1037 of 2022

Shri Moirangthem Prakash Singh, aged about 43 years, S/o(L) M. Jayantakumar Singh, resident of Haoreibi Awang Leikai, PO & PS Wangoi, District Imphal West, Manipur-795009.

....Petitioner

– Versus –

1. The State of Manipur through the Commissioner/Secretary (Eco. & Stats), Govt. of Manipur Old Secretariat Building, PO & PS Imphal, District Imphal West, Manipur-795001.
2. The Director of Economics and Statistics, Govt. of Manipur, Lamphelpat, PO & PS Lamphel, District, Imphal West, Manipur-795001.
3. The Deputy Secretary (Eco.& Stats.), Govt. of Manipur New Secretariat Building, PO & PS, Imphal, District Imphal West, Manipur-795001

.... Respondents

**BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Petitioner	:	Mr. Kh. Tarunkumar, Sr. Adv. & Kh. Maria, Adv.
For the Respondents	:	Mrs. Ch. Sundari, GA.
Date of reserved.	:	30.07.2024/17.12.2024/27.05.2025
Date of Judgement	:	25.06.2025

J U D G E M E N T & O R D E R

(CAV)

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Ms. Kh. Maria, learned counsel for the petitioner and Mrs. Ch. Sundari, learned GA for the State respondents.

[2] By the present writ petition, the petitioner is praying for issuance of writ of certiorari for quashing the impugned regularization order dated 25.01.2020 including the decision of the State Cabinet in respect of the petitioner as well as the letters dated 23.09.2022 and 04.10.2022 and to issue a writ in the nature of mandamus to direct the respondents to regularize him to the post of Statistical Officer w.e.f. 25.01.2020.

[3] The petitioner was initially appointed to the post of Statistical Officer on contract basis vide order dated 08.12.2015 issued by the Director, Economics & Statistics under MASSSP (Manipur State Statistical Strategic Plan) and 30 (thirty) other persons were also appointed to the post of Data Entry Operator on contract basis on the same day. Vide order dated 30.04.2018, the Director (Eco. & Stats.), Government of Manipur issued a

certificate in favour of the petitioner for supervising the DEO and other works.

[4] It is stated that in pursuance to the approval given by the Government of Manipur for service extension of the petitioner and 27 other Data Entry Operators, the Director of Economics and Statistics, Govt. of Manipur issued a notification on 23.11.2018 whereby the service of the petitioner and 27 other incumbents were extended for another period of 1 year and their engagement would come into effect only after signing of agreement in the prescribed format issued by the Directorate. Accordingly, on 26.11.2018, the Director of Economics and Statistics, Govt., of Manipur issued an order whereby the work allocation of the petitioner and 27 other Data Entry Operators was issued by the Director of Economics and Statistics, Govt. of Manipur. The name of the petitioner appeared at Sl. No. 1 in the said order.

[5] While the petitioner was serving as Statistical Officer on contract basis, the Under Secretary (Eco. & Stats.), Govt. of Manipur issued an order dated on 25.01.2020, whereby 1(one) post of Primary Investigator and 24 post of Data Entry Operator were created with the concurrence of the Department of Personnel and Administrative Reforms and Finance Department, Govt. of Manipur. Thereafter, on 25.01.2020, the Under

Secretary (Eco. & Stats.), Govt. of Manipur issued an order whereby the service of the petitioner was regularized to the post of Primary Investigator and by the said order, 24 other persons were also regularized to the post of Data Entry Operators respectively.

[6] As the petitioner was not satisfied with his regularization to the post of Primary Investigator, he submitted a representation to the Commissioner, Economics and Statistics, Govt. of Manipur on 13.03.2020 wherein he requested to review the aforesaid regularization order dated 25.01.2020 as he was serving as Statistical Officer and to regularize his service as Statistical Officer. The petitioner also filed a writ petition being W.P(C)No. 414 of 2020 before this Hon'ble Court challenging the legality of his regularization order with a further prayer to direct the respondents to regularize his service to the post of Statistical Officer which he was holding prior to his regularization within a stipulated period. Later on, the said writ petition was withdrawn with a liberty to file a fresh one.

[7] It is further stated that on 20.07.2022, the petitioner submitted a reminder representation to the Secretary (Eco. Stats.), Government of Manipur wherein, he requested to regularize his service to the post of Statistical Officer which he was holding prior to his regularization as had been done in respect of other similarity situated incumbents. Thereafter, on

23.09.2022, the Deputy Secretary (Eco. & Stats.), Government of Manipur wrote a letter to the Director of Economics and Statistics, Government of Manipur wherein, it was informed that the proposal of the petitioner for reviewing of his regularization order dated 25.01.2020 lacks merit and the same was regretted and accordingly, on 04.10.2022, the Director of Economics and Statistics, Government of Manipur wrote a letter to the petitioner wherein it was informed that his request to review his regularization order lacked merit. Hence, the petitioner filed the present writ petition.

[8] The respondent Nos. 1 to 3 have filed counter affidavit stating that the petitioner was engaged as Statistical Officer (SO) on contract basis under the Manipur State Statistical Strategic Plan (MASSSP). The term of engagement was for the petitioner of implementation of the MASSSP and there was no sanctioned post of Statistical Officer (SO) and the contract employees were regularized against the sanctioned posts available. Moreover, the petitioner accepted the regularization order dated 25.01.2020 and as such, he cannot challenge at this stage and there is no sanction post of SO in the department as on today. It is further stated that the Data Entry Operator engaged on contract basis as Data Entry Operator (DEO) were regularized as DEO on the basis of the available sanctioned posts of DEO. However, similar treatment to the petitioner is not possible as there is no

sanctioned post of Statistical Officer in the Directorate of Economics and Statistics, Manipur.

[9] Mr. Kh. Tarunkumar, learned senior counsel for the petitioner submitted that the petitioner applied for the post of Statistical Officer and engaged to the said post of Statistical Officer and served for more than 4(four) years on contract basis prior to his regularization but the petitioner was regularized as Primary Investigator which is highly arbitrary and illegal in the eye of law for the reason that his service should have been regularized to the post of Statistical Officer as the petitioner was serving to the said post for more than 4(four) years on contract basis.

[10] Learned senior counsel for the petitioner further submitted that the essential qualification for the post of Statistical Officer is Post Graduate Degree in Economics/Statistics/Mathematics and in respect of the Primary Investigator, the qualification is only Graduate and therefore, the said two posts are different posts and it cannot be treated as similar post. Such difference in qualification were not considered by the respondents while taking up the policy for regularization of the petitioner's service. Hence, the impugned order dated 25.01.2020 in respect of the petitioner is not sustainable in the eyes of law.

[11] Referring the counter affidavit filed by respondent Nos. 1 to 3 and letter dated 27.05.2024 sent by the Under Secretary (Eco.& Stats), Government of Manipur, Mrs. Ch. Sundari, learned GA for the State respondents has submitted that since the Statistical Officer as such was not available in the department and there were no promotion avenue thereafter, DES proposed to regularize the petitioner as PI (Primary Investigator i.e. 2 level higher from DEO) so as to provide promotion avenue vide letter dated 06.11.2019. Since the post of SO in regular capacity did not exist in the Department, Pay/Level/Financial implication could not be readily calculated and hence, the petitioner was regularized to the post of Primary Investigator as there was no sanctioned post of Statistical Officer(SO) and the contract employees were regularized against the sanctioned posts available. Moreover, the petitioner accepted the regularization order dated 25.01.2020 and as such, he cannot challenge at this stage and there is no sanction post of SO in the department as on today and hence, writ petition may be dismissed at this stage. During the course of hearing and as directed, learned GA has submitted a copy of letter dated 06.06.2024 sent to her by the Deputy Secretary (Eco. & Stats.), Government of Manipur intimating that the post of Statistical Officer is not available in the department and the petitioner was proposed to be regularized as Primary Investigator.

[12] The relevant Cabinet Memo for 'creation of 25 posts (one post of Statistical Officer and 24 posts of Data Entry Operator)' is reproduced below to understand the object and rationale behind the regularization of the contract staff.

"No. 1/2/2015-E&S
GOVERNMENT OF MANIPUR
SECRETARIAT : ECONOMICS & STATISTICS DEPARTMENT
MEMORANDUM FOR THE CABINET

Subject : Creation of 25 posts (one post of statistical Officer and 24 posts of Data Entry Operator) in the Economics and Statistics Department, Manipur along with regularization of the existing staff working on contract basis against the posts proposed to be created.

1. INTRODUCTION :

The Directorate of Economics & Statistics, Manipur was established in July, 1958. The manpower of the Directorate are utilized for (i) Collection of Primary Data through survey (ii) collection of secondary data from different sources, (iii) data compilation, (iv) data processing (v) generation of estimates/indicators and (vi) preparation/publication of reports etc.

The directorate collects Primary data through National Sample Survey (NSS) and crop Estimation Survey (CES) and other surveys. The Directorate of Economics & Statistics, Manipur has been participating in the survey programme Implementation (MoSPI), Government of India, since the 5th sub-round of the 17th round (1962-63). Currently, the 77th Round (January to December, 2019) is in progress.

The present round of NSS (77th round) which has started from 1st January, 2019 will end on 31st December 2019 covering 576 sample villages to collect data relating to (i) Land and Livestock Holdings of Households and situation Assessment of Agriculture Households (ii) Debt and Investment. The data collected from the sample households of the sample village by the Primary Investigator under the overall supervisions of the District Statistical Officer.

The Directorate also conducts Crop Estimation Survey (CES) to derive estimates of area under different cereal and non-cereal crops and production of cereal crops is also being conducted. The CES covers 512 (224 Valley + 288 Hill) selected villages of Manipur every year. Altogether 4480 plots of Valley Areas and 1152 plots of Hill Areas are to be visited for collection of data every year. The field staff of the District Statistical Offices (DSOs) collects the data under the overall supervision of the

District Statistical Officers using the schedule & instruction prepared by the Agricultural Statistics Section of the State Head Quarters.

For effective entry of the data so collected and also validation of the data so collected, the Economics & Statistics Department, Manipur requires trained and dedicated statistical officer and data entry operators.

2.

3. PROPOSAL: The present proposal is for creation of 25 posts (one post of Statistical Officer and 24 posts of Data Entry Operator) in the Economics & Statistics Department, Manipur along with regularization of the existing staff working on contract basis against the posts proposed to be created. Details of the posts proposed to be created along with their minimum essential criteria and financial implications is annexed herewith as ANNEXURE-I and details of the existing staff proposed to be regularized against the posts proposed to be created is also annexed herewith as ANNEXURE-II.

4. JUSTIFICATION :

I. The Department of Economics & Statistics, Manipur is currently undertaking various surveys for the collection of Primary Data through Sample Survey (NSS) and Crop Estimation Survey (CES) etc. The Directorate of Economics & Statistics, Manipur has been participating in the survey programme of National Sample Survey Office (NSSO), Ministry of Statistics and Programme Implementation (MoSPI), Govt. of India, since the 5th sub-round of the 17th round (1962-63). Currently, the 77th Round (January to December, 2019) is in progress. It is highlighted that collection of Primary Data through Sample Survey and Crop Estimation Survey are continuous process. Accordingly, the Department requires trained and dedicated manpower for entry of data and also for the validation of the data so collected.

II. Accordingly, the services of the existing 24 Data Entry Operators (DEO) and one Statistical Officer (SO) are still required in the Directorate considering the mandate of the data processing work and without their service, it would be difficult for the Directorate to perform the time bound NSS work within the stipulated time frame laid by the Government of India.

III. It is pointed out that, the above existing DEOs and SO had been engaged on contract basis through open advertisement and on the recommendation of a duly constituted committee under the chairmanship of the then Principal Secretary (Eco & St), Government of Manipur.

IV. As the above 25 persons have been engaged on the recommendation of a duly Constituted committee, they are found to be very competent, efficient and reliable. Further, they have adequate experience in the present field of work. If the posts are to be filled up from the fresh candidates, there will be time lag as they lack practical experience and the urgent and important time bound works will suffer.

V. It is highlighted that while seeking views of the FD and DP, the FD has stated that "ban on post creation/direct recruitment was imposed as a part of austerity measures in view of the critical financial constraint. Moreover, there is no scheme for regularization of contractual staff. Hence, AD may, instead of regularization, allow continuation of the service of existing contract staff in the same capacity (on contract basis) if their services are essentially required. This will minimize expenditure".

In this connection, the following observations are made :

a. Even though at present there is a ban on post creation/direct recruitment was imposed as a part of austerity measures, the Cabinet after examining the genuineness of the proposal can relax the ban on creation of posts and filling up of posts falling under the direct recruitment quota if the proposal is in the exigency of works and in public interest.

b. If the proposal for regularization of the contractual staff is in the overall interest of the Department for effective implementation of various key schemes undertaken by the Department, the Cabinet can also take necessary decision in this regard in public interest.

C. The Department of Economics & Statistics, Manipur has been mandated to collect various primary data through National Sample Survey, Crop Estimation Survey and other Central and State Sponsored Surveys. Accordingly, the Department requires manpower for effective entry of data so collected and also validation of the data by trained and dedicated employees (Statistical Officer and Data Entry Operators) engaged on permanent basis. So, the proposal is in the exigency of works and also in public interest as it will not be advisable to entrust these important and time bound works to contractual employees as these data are the backbone for planning various developmental works by the State Government.

5. INTER-DEPARTMENTAL CONSULTATIONS :

I. Views of the Finance Department have been obtained and the same are reproduced below :

"Ban on post creation/direct recruitment was imposed as a part of austerity measures in view of the critical financial constraint. Moreover, there is no scheme for regularization of contractual staff. Hence, AD may, instead of regularization, allow continuation of the service of existing contract staff in the same capacity (on contract basis) if their services are essentially required. This will minimize expenditure"

II. The Department of Personnel & Administrative Reforms, Government of Manipur has been requested to furnish their esteemed views/comments by 23-11-2019 vide this Government letter No. No. 1/2/2015 E&S dated 14-11-2019. As views/comments of the DP have not been received, the DP has again been requested vide this Government letter No. 1/2/2015-E&S dated 02-12-2019 to furnish the required views/comments. However, no comments/views have been received from the DP till 11-12-2019. Accordingly, DP has been requested to furnish

their Views/comments direct to the Cabinet Department with a copy endorsed to this Government so that their views/comments can be placed before the Cabinet while discussing the proposal for creation 25 posts along with regularization of the existing staff working on contract basis against the posts proposed to be created.

6. FINANCIAL IMPLICATIONS:

The financial implication for creation of one post of SO/PI and 24 posts of DEOs will be Rs.63,71,064/- per annum (as per ROP, 2010) as detailed in the statement annexed as Annexure-1.

7. APPROVAL PARAGRAPH:

Accordingly, the matter is being placed before the State Cabinet for kind consideration and approval of the proposal made at Para-3 above.

8. APPROVAL OF THE MINISTER-IN-CHARGE :

The Hon'ble Deputy Chief Minister (Eco & Statistics), Manipur has approved to place the matter before the Cabinet.

9. APPROVAL OF THE CHIEF MINISTER:

The Hon'ble Chief Minister, Manipur has agreed to place the matter before the Cabinet for taking a decision in this regard.

[TH. GOPEN MEITEI]

Commissioner (Eco. & Statistics), Manipur

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ANNEXURE-I

FINANCIAL IMPLICATION FOR 1-PRIMARY INVESTIGATOR & 24-DEOs (ROP-2010 IN THE DIRECTORATE OF ECONOMICS & STATISTICS, MANIPUR (AS ON 1-10-2019)

POST/SCALE OF PAY	Rop-2010 Pay GP	Total Amt (Rs.) Per employee Month Annual	Remarks
PRIMARY INVESTIGATOR (5200-20200 GP-2400)	Pay 7510 GP 2400 DA 13973 HRA 991	26874 322488	Total for 1-P/I Rs.3,22,488/-

	SCA 1200 TA 800 Total 26874		
<i>Data Entry Operator (5200-20200 GP-1900)</i>	<i>Pay 5830 GP 1900 DA 10899 HRA 773 SCA 1200 TA 400 Total 21002</i>	<i>21002 252024</i>	<i>Total 24-DEOs Rs. 60,48,576/-</i>
<i>Total financial implication per annum</i>			<i>63,71,064/-</i>

(Rupees sixty three lakhs seventy one thousand and sixty four) only.

*Note: 1. In the current Budget, 2019-20, there is no provision for payment of their regular pay as presently, they are contingent paid (honorarium) on contract basis.
2. The post of SO may be regularized as Primary Investigator.*

*[L. IBO SINGH]
Dy Director (Admin)
Directorate of Economic & Statistics
Manipur"*

[13] Mr. Kh. Tarunkumar, learned senior counsel for the petitioner submits that by the above quoted cabinet memo, the authority proposed to regularize the 25 contractual staff of the Economics and Statistics Department (1 post of Statistical Officer + 24 posts of Data Entry Operator) by creating

new posts. It is pointed out that the object of regularization is clear from the subject matter of the cabinet memo which reads as “Subject: Creation of 25 posts (one post of statistical Officer and 24 posts of Data Entry Operator) in the Economics and Statistics Department, Manipur along with regularization of the existing staff working on contract basis against the posts proposed to be created.” Learned Senior counsel tries to impress this Court that the proposal is to regularize the 25-contract staff of the department. The justifications given in the cabinet memo are- (i) these employees were appointed on the recommendation of a duly constituted committee through open advertisement; (ii) they were found to be very competent, efficient and reliable; (iii) they had adequate experience in their field of work; & (iv) if the posts were to be filled up from the fresh candidates, there would be time lag as they would lack practical experience and urgent work would suffer. Referring to para 3 and 4 of the memo, it is urged that the proposal was for creation of 25 posts (1 post of Statistical Officer + 24 posts of Data Entry Operator) and regularization of the existing 25 contract staff working under the same posts against the newly proposed posts on regular basis keeping into consideration the manner of their initial induction to the posts after following due process and their utility in the department. However, without any justification, in ANNEXURE-I of the cabinet memo, the post of Statistical

Officer was replaced by 'Primary Investigator' while the post of 'Data Entry Operator' was kept intact. In the circumstances, the cabinet approved 1 (one) post of 'Primary Investigator' in place of 'Statistical Officer' and 24 (twenty four) posts of Data Entry Operator. Accordingly, vide order dated 25.01.2020 [Annexure-A/11 in WP] issued by the Under Secretary (Eco. & Stats.), Government of Manipur, 1 (one) post of Primary Investigator [Rs.5200-20200+GP Rs.2400] and 24 (twenty four) posts of Data Entry Operator [Rs.5200-20200+GP Rs.1900] were created in the department. Vide another order dated 25.01.2020 [Annexure-A/12], Under Secretary (Eco. & Stats.), Government of Manipur issued regularization order for the petitioner to the post of Primary Investigator and 24 Data Entry Operators. Being aggrieved by the regularization to the post of Primary Investigator, the petitioner submitted a representation dated 13.03.2020 for upgrading his regularization to the post of Statistical Officer as proposed in the cabinet memo on the ground that post of Primary Investigator is two grades below the post of Statistical Officer [Rs.9300 + GP Rs.4200]. The representation was rejected by the Deputy Secretary (Eco. & Stats.), Government of Manipur vide order dated 23.09.2022 and by Director of Economics & Statistics, Manipur vide order dated 04.10.2022 being devoid of merit. It is submitted that the authority has treated similarly situated persons unequally. While the proposal was for

creation of 1 post of Statistical Officer and 24 posts of Data Entry Operator for regularization of the existing contract staff, the authority created 1 post of Primary Investigator and 24 posts of Data Entry Operator. The request of the petitioner has been rejected on the plea of the non-availability of the post. It is emphasized that the mistake of creating the post of 'Primary Investigator' in place of 'Statistical Officer' lies with the respondents due to the inadvertent error crept in ANNEXURE-A-I of cabinet memo. The cabinet perhaps took a decision on the basis of ANNEXURE-A-I, ignoring the clear and specific proposal of creating one post of 'Statistical Officer'. In the circumstances, the petitioner was wrongly regularized to a lower post of 'Primary Investigator'. It is highlighted that plea of non-availability of the post cannot be accepted, as 24 posts of Data Entry Operator were also created by the same order. It is prayed that the post of Primary Investigator be upgraded to the post of 'Statistical Officer' wef 25.01.2020 as done in the case of Data Entry Operators and the petitioner be regularized to the upgraded post wef 25.01.2020.

[14] Per contra, Mrs. Ch. Sundari, learned GA submits that in the cabinet memo, it has specifically been mentioned in ANNEXURE-A-I that 1 (one) post of 'Primary Investigator' with pay scale of Rs. 5200-20200 GP-2400 and 24 posts of 'Data Entry Operator' [5200-2-2—GP-1900] were

proposed for fresh creation for regularization of the 25 existing contract staff. The post of 'Statistical Officer' was proposed to be regularized as 'Primary Investigator' as mentioned in Note-2 of the memo. It is pointed out that there was no error in the proposal and cabinet approval. Accordingly, 1 post of Primary Investigator and 24 posts of Data Entry Operator were created as approved by cabinet vide order dated 25.01.2020 and regularization order dated 25.01.2020 was issued. It is submitted that there is no merit in the writ petition as the petitioner has no inherent right of regularization to the non-existing post of Statistical Officer.

[15] This Court has minutely perused the materials on record specially the cabinet memorandum dated 11.12.2019 and the submissions made at bar.

[16] It is seen that the petitioner and others were initially appointed on contract basis on the basis of Advertisement dated 01.10.2015 for appointment of Statistical Officer, IT Expert and Data Entry Operators on contract basis under Manipur State Strategic Statistical Plan (MASSSP), a project under Central Statistics Office, Ministry of Statistics and Programme Implementation, Government of India. Their service has been extended from time to time, till the proposal for regularization was placed before cabinet. The proposal was put up before the cabinet for creation of 25 regular posts (1 post

of Statistical Officer + 24 posts of Data Entry Operator) for the purpose of regularization of the existing 25 persons employed on contractual basis, taking into consideration their mode of initial appointment and their experience and capabilities. The object behind the creation of these 25 posts to regularize the existing contractual employees is clear on plain reading of the 'subject' of the memo and para 3 & 4. The cabinet memo was submitted with a prayer at para 7 for approval of proposal at para 3. The proposal at para 3 is for creation of 25 posts (1 post of Statistical Officer + 24 posts of Data Entry Operator) and regularization of the existing 25 contract staff working under the same posts against the newly proposed posts on regular basis. However, without any plausible explanation, in ANNEXURE-A-I of the memo, the proposal for creation of post of 'Primary Investigator' was inadvertently mentioned. Accordingly, cabinet approval was given for creation of one post of 'Primary Investigator' in place of the proposal made at para 3 of the memo. But the proposal for creation of 24 posts of Data Entry Operator was kept intact. Due to change in the ANNEXURE-A-I, the proposal for creation of a regular post of 'Statistical Officer' could not become a reality and the same is without any explanation of sort. The reason for changing from the post of 'Statistical Officer' to that of 'Primary Investigator' cannot be apprehended from the record, nor was properly explained at any stage, ie, in

the counter affidavit, in oral submission or in letter submitted during hearing. The sole reason for rejection for upgradation of regularization of the petitioner to the post of 'Statistical Officer' is non-availability of such post, for which the State respondents are solely responsible for this unfortunate situation. The petitioner has a legitimate expectation like other similarly situated persons to be considered for regularization in the same post that he was holding on contract. Such expectation cannot be belied without any reason when similarly situated persons have been accommodated. This Court is of the firmed view that the State respondents had acted irrationally, arbitrary and the petitioner was left high and dry without any valid reason, and perhaps on the basis of contents of the ANNEXURE-A-I to the cabinet memo. The annexure did not reflect the true object of regularization as specifically spelled out in the 'subject' and in para 3, 4 & 7 of the memo.

[17] At the expenses of repetitions, it may be re-emphasized that similarly placed persons are to be treated equally. In a recent decision passed by the Hon'ble Supreme Court in the case of **The State of Madhya Pradesh v. Shyam Kumar** [Order dated 22.07.2024; SLP(C) No.25609/2018]: **MANU/SCOR/87335/2024 @ Para 5**, it has been held that benefits must be extended to all those who fall within the parameter of a policy. Para 5 is reproduced below:

“5. It is true that an employee engaged on daily wages has no legally vested right to seek regularisation of his services. However, if the competent authority takes a policy decision within the permissible framework, its benefit must be extended to all those who fall within the parameters of such a policy. Authorities cannot be permitted to pick and choose in such circumstances.”

[18] In the case of **Rattan Lal v. State of Haryana: (1985) 4SCC 43**, Hon'ble Supreme Court observed as “..... *It is needless to say that the State Government is expected to function as a model employer*”. State authority is expected to treat equals equally and any deviation should be based on a sound rationale. Any arbitrary act is an anathema to the doctrine of equality embodied in the Article 14 of the Constitution of India. The hallmark of administrative decision is nothing but treating similarly situated persons equally and also with equity.

[19] From the above discussion, it is beyond doubt that the original proposal was for creation of 25 posts (1 post of Statistical Officer + 24 posts of Data Entry Operator) and regularization of the existing 25 contract staff working under the same posts against the newly proposed posts on regular basis on consideration of the manner of their entry to service and their ability and competence in discharging the duties assigned to them. But due to some

misunderstanding or miscommunication, the proposal of creation of a regular post of 'Statistical Officer' was converted to that of 'Primary Investigator' while the proposal for 'Data Entry Operator' was kept intact and in the process the petitioner became victim, as he was regularized to a lower post while other similarly situated persons were regularized to the same posts as they held as contract staff. It is the settled proposition of law that a contract staff has no inherent right of claiming regularization to the same post. However, if the authority makes regularization of the contract staff by making a scheme of sort, then all similarly situated persons should not be left out of the scheme. This is the dictum as laid down by Hon'ble Supreme Court in the recent case of **Shyam Kumar (supra)**. The rule laid down, as early in the year 1982 by a 5-Judge Constitution Bench, in the case of **D S Nakara v. Union of India: (1983) 1 SCC 305** is that 'intelligible differentia' must exist between groups being classified and such classification must have a nexus with the object sought to be achieved. Applying the principle to the fact of present case, it is clear that there is no reason for denying the benefit of regularization to the post held by the contract employees to the petitioner herein. No valid reason is not given for leaving out the petitioner. The State authority has acted unfairly, thereby denying the petitioner of regularization to the same post as done to similar employees recruited through the same advertisement.

[20] In the circumstances, this Court is constrained to hold that the petitioner is also entitled to be regularized to the post of 'Statistical Officer' as proposed in the cabinet memo. Accordingly, it is directed that the post of 'Primary Investigator' as created by order dated 25.01.2020 be converted to 'Statistical Officer' in the appropriate pay scale of ROP-2010 [eg, 9300 + GP-4200] and the petitioner is to be treated as regularized notionally to the post of 'Statistical Officer' wef 25.01.2020 for the purpose of other service benefits, but he will not be entitled to arrears. His pay scale shall be fixed from the date of this judgment, i.e., from 25.06.2025 at the appropriate stage. The whole exercise shall be completed within a period of 60 days from the date of receipt of a copy of this order.

[21] In terms of the above findings, directions and observations the writ petition is allowed and disposed of. No cost.

[22] Send a copy of this order each to the Administrative Secretary and the Director (Eco. & Stats.), Government of Manipur for information and necessary compliance.

JUDGE

FR/NFR
John Kom