



Serial Nos. 04-09
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 6 of 2024 with
WA No. 7 of 2024
WA No. 8 of 2024
WA No. 9 of 2024
WA No. 10 of 2024
WA No. 22 of 2024

Date of order: 29.01.2025

WA No.6/2024

Iamonlang Marbaniang

....Appellant

Vs

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.
2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.
5. Shri. Bonyfast Wahlang, temporary Stretcher Bearer, DM&HO, Nongstoin, West Khasi Hills District.

....Respondents

WA No. 7 of 2024

Artones Lyngdoh

...Appellant

Vs.

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.



2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.
5. Shri. Botti Wahlang, Cook, DM&HO, Nongstoin, West Khasi Hills District.

....Respondents

WA No. 8 of 2024

Ephilinda Lyngdoh Mawnai

...Appellant

Vs.

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.
2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.
5. Smti. Telbi Ryntathiang, DM&HO, Nongstoin, West Khasi Hills District.

....Respondents

**WA No. 9 of 2024**

Smti. Listina Basaiawmoit

...Appellant

Vs.

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.
2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.

....Respondents

WA No. 10 of 2024

Smti. Simple Marbaniang

...Appellant

Vs.

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.
2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.
5. Shri. Bonyfast Wahlang, Stretcher Bearer, Tirot Singh Memorial Hospital, Nongstoin, West Khasi Hills District.

....Respondents

**WA No. 22 of 2024**

Shri. Rockcliff John Nongrum

...Appellant

Vs.

1. The State of Meghalaya represented by the Secretary to the Government of Meghalaya, Health and Family Welfare Department, Shillong, East Khasi Hills District, Meghalaya.
2. The Secretary to the Government of Meghalaya, Personnel ADMV Reforms (B) Department, East Khasi Hills District, Meghalaya.
3. The Director of Health Services (MI) Health Complex, Laitumkhrah, Shillong, East Khasi Hills District, Meghalaya.
4. The District Medical & Health Officer, West Khasi Hills District, Nongstoin.
5. Smti. Telbi Rynthiang, Ward attendant, Tirot Singh Hospital Mairang, West Khasi Hills District.

....Respondents

Coram:

Hon'ble Mr. Justice Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Mr. R. Gurung, Adv with
Ms. A. Chetri, Adv

For the Respondents : Mrs. T. Yangi B., AAG with
Mrs. I. Lyngwa, GA

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



JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

There are six appellants before us. All of them were appointed on temporary and contractual basis for a period of three months as stretcher bearers by the District and Medical Health Officer, West Khasi Hills, Nongstoin, Meghalaya.

The affidavit filed by the State shows that all these appointments were made between 2013 and 2014. It appears that from time to time this three months' period of appointment was renewed in case of each of the appellants but not later than October, 2018. Most of them were renewed only till 2017.

The cause of action on which these writs were founded was this. The writ petitioners were entitled to immediate reinstatement and further renewal of their service from time to time.

If one considers this ground of the appellants in isolation, they have no case whatsoever.

Mrs. T. Yangi B., learned AAG appearing for the State has made the following submissions on which basis, we have made our above observations.

These temporary appointments were maintained for a certain period of time between 2018 and 2019 or 2020. A regular recruitment process was carried out resulting in regular permanent appointments to these posts. There is no scope of any temporary appointment to continue. She began by citing the celebrated case of *Secretary, State of Karnataka & ors v. Uma Devi (3) & ors* reported in (2006) 4 SCC 1, where a five-judge bench of the Supreme Court deprecated regularisation of temporary or ad hoc employees, except on very



extraordinary and specific circumstances and ruled that any public post was to be filled up fairly and transparently by a recruitment or selection process. In ***Harminder Kaur & ors v. Union of India & ors*** reported in **(2009) 13 SCC 90**, the same Court held that the dicta in *Uma Devi*(3) was not being followed by some courts which were continuing to direct regularisation of ad hoc or temporary appointments on some pretext or the other. It quoted from ***Official Liquidator v. Dayanand*** reported in **(2008) 10 SCC 1** to deprecate the practice. The following passage was quoted:

“90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in the last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass roots will not be able to decide as to which of the judgments lay down the correct law and which one should be followed.

91. We may add that in our constitutional set-up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the constitutional ideals. This principle is required to be observed



with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law.

92. In the light of what has been stated above, we deem it proper to clarify that the comments and observations made by the two-Judge Bench in *U.P. SEB v. Pooran Chandra Pandey* should be read as obiter and the same should neither be treated as binding by the High Courts, tribunals and other judicial foras nor they should be relied upon or made basis for bypassing the principles laid down by the Constitution Bench.”

This dictum in *Uma Devi*(3) was again reaffirmed in ***State of Bihar & ors v. Devendra Sharma*** reported in (2020) 15 SCC 466 (paragraphs 20, 21, 22, 29, 34 and 44) and in ***Ganesh Digamber Jambhrunkar & ors v. State of Maharashtra*** reported in 2023 LiveLaw (SC) 801.

We cannot and do not dispute or differ from the proposition that these posts were purely contractual and temporary for three months. The appointees had no right of renewal of their service, far less any right of regularisation.

However, there is one distinctive feature in this case.

The writ petitioners had averred in paragraph 9 of the writ petition that subsequent to expiry of the contractual term, the service of all contractual employees except nine was renewed (till the regular appointments were made). Now, during continuance of their contractual



terms, these nine appointees had filed writ petitions in this Court to claim their salaries and other dues. The services of only these nine individuals were not renewed.

Unfortunately, this averment has not been denied in paragraph 9 of the affidavit-in-opposition to the writ petition filed by the State.

Paragraph 9 of the writ petition and paragraph 9 of the affidavit-in-opposition are quoted below:

“9. That it is pertinent to mention here that the Respondent No. 4 had made 31 appointments similar to that of your humble Petitioner and 9 individuals including the Petitioner had approached this Hon’ble Court for a direction for disbursement of their salaries whereby ***the individuals have brought upon them the wrath of the Respondent authorities*** which is evidence from the impugned letter dated 19/02/2019 whereby direction have been passed as not to renew the services of only those individuals who had approached the Hon’ble Court excluding the individuals who did not approach the Hon’ble Court.”

“9. That in reply to the averments in paragraph 9 of the writ petition, the Answering Respondent humbly submits that the same are false and unsustainable and hence denied. In fact, the Director of Health Services (MI), Meghalaya, Shillong had issued the Letter No. HSM/ESTT/NGZT/CC/DIST/31/32408 dated 19-02-2019 whereby requesting the District Medical & Health Officer, West Khasi Hills, Nongstoin to immediately release the pay and other allowances to the Petitioner in compliance with the Order of this Hon’ble Court dated 15-11-2018 passed in W.P. (C) No. 412 of 2018, and accordingly, the concerned Treasury Officer, West Khasi Hills, Nongstoin had duly released the salaries of the Petitioner for the period of her service as per the appointment order(s). Therefore, the impugned order dated 19-02-2019 passed by Respondent No. 3 is fair, reasonable and legally sound.”



Therefore, this case narrows down to exclude any claim for regularisation. It centers around the remedy which the appellants are entitled to for being clearly discriminated against at the time of renewal of their temporary service when the regular recruitment or selection process had not even started. In our view, the State has acted unfairly and a little maliciously against the appellants by not renewing their temporary service because they approached this Court. To this extent they are entitled some remedy from this Court. At best, each of them was entitled to three months renewal. Further renewal was at the entire discretion of the respondents. During this period when their service was not renewed, the appellant did not have to work.

In those circumstances, we direct the State to pay two months' salary or emoluments which was payable to each of the appellants at the time of expiry of service in 2017 or 2018. This would be a just and equitable relief to them. The payment directed to be made by us should be paid within eight weeks from the date of communication of this order.

The impugned judgment and order is modified to above effect. Each of the six appeals is thus disposed of.

(W. Diengdoh)
Judge

(Justice I.P. Mukerji)
Chief Justice