CNR No. SKHC01-000082-2025

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

WP(C) No.30 of 2025

1. **Homnath Neopaney,**
S/o Late Shree Prasad Neopaney,
R/o Kokeley Busty,
P. O. Makha 10th Mile, District-Gangtok (East Sikkim),
Employee of the NHPC Ltd.,
At Teesta Stage-VI HEP project, Balutar,
Singtam, District-Gangtok (East Sikkim).

2. **Chang Dorjee Tamang,**
S/o Late Bal Bahadur Tamang,
R/o Lower Khamdong, Dipudarah,
Singtam East Sikkim,
Employee of the NHPC Ltd.,
At Teesta Stage-VI HEP project, Balutar,
Singtam (Sikkim).

3. **Kaushal Kishor,**
S/o Late Shri Amarendra Prasad,
Employee of the NHPC Ltd.,
At Teesta Stage-VI HEP project, Balutar,
Singtam (Sikkim). ... **Petitioners**

versus

1. **NHPC Ltd.,**
(A Government of India Enterprise)
Through its Chief Chairman & Managing Director,
Registered Office: NHPC Office Complex, Sector-33,
Faridabad, Haryana.

Alternative Local Address:
Executive Director (NHPC Ltd.), Teesta-VI,
Balutar, Singtam, District-Gangtok (East Sikkim)

2. **Union of India,**
Ministry of Corporate Affairs through its Secretary,
'A' Wing, Shastri Bhawan,
Rajendra Prasad Road, New Delhi

3. **State of Sikkim,**
Through its Secretary, Department of Power,
Gangtok. ... **Respondents**

Petition under Article 226 of the Constitution of India

Appearance:

Dr. (Mrs.) Doma T. Bhutia, Senior Advocate with Mr. Saurav Rai and Mr. Sonam Topden Bhutia, Advocates for the Petitioner.

Mr. Jorgay Namka, Senior Advocate with Mr. Lahang Limboo, Advocate for the Respondent No.1.

Ms. Sangita Pradhan, Deputy Solicitor General of India with Mr. Amit Kumar Sharma, Advocate for the Respondent No.2.

Ms. Pema Bhutia, Assistant Government Advocate for the Respondent No.3.

Judgment Reserved on	: 08.09.2026
Judgment Pronounced on	: 11.09.2026
Judgment Uploaded on	: 11.09.2026

JUDGMENT

(A. Muhamed Mustaque, C.J.)

1. The Petitioners seek directions in the Writ Petition to absorb them as permanent employees of the M/s National Hydro Electric Power Corporation (NHPC) Limited, a Government of India undertaking, consequent upon the scheme of amalgamation, whereby M/s Lanco Teesta Hydro Power Limited (LTHPL), a public limited company, was amalgamated with the NHPC Limited, a Government company in the year 2025.

2. In the order passed by the Ministry of Corporate Affairs, Government of India dated 02.01.2025, it is specifically mentioned that upon the scheme becoming effective the employees of the LTHPL shall be deemed to have become employees of the transferee company and would be entitled to all the benefits to which they may be eligible.

3. The Petitioners were initially recruited as regular employees of the LTHPL. The appointment orders of the Petitioners and the promotions subsequently given to them would establish that they were regular employees of the LTHPL.

4. The entitlement of the Petitioners to the reliefs sought, therefore, depends upon whether they continued to be employees of the LTHPL, on the date on which the scheme of amalgamation became effective. If the Petitioners were on the rolls of the LTHPL, the transferor company, as on the date of amalgamation, they would, subject to the terms of the scheme, be entitled to claim the benefits of the amalgamation or reliefs sought in the matter. However, the records produced before this Court discloses that insolvency proceedings were initiated against LTHPL before the National Company Law Tribunal, Hyderabad, in the year 2019. The subsequent events, particularly the employment accepted by the Petitioners pursuant to the resolution plan are material for deciding the present claim.

5. On a petition filed by ICICI Bank Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016, insolvency resolution proceedings were initiated against the LTHPL. Based on the resolution plan, the LTHPL became a subsidiary company of the NHPC Limited with effect from 09.10.2019. Thereafter, LTHPL became a Government company within the meaning of Section 2(45) of the Companies Act, 2013.

6. The NHPC Limited thereafter offered employment to the Petitioners on a fixed tenure basis for one year, with effect from 26.12.2019. The Petitioners accepted the fixed tenure appointment. The NHPC Limited became the parent company and the LTHPL became its subsidiary company.

7. While the Petitioners continued as employees of the NHPC Limited, a joint confirmation petition was filed before the Central Government on 09.10.2023 proposing a scheme of amalgamation between M/s LTHPL and the NHPC Limited. The same was approved. In that order, it is specifically stipulated that all the employees of the LTHPL, the transferor company, would continue to be employees of the transferee company.

8. The benefit of the aforesaid stipulation, however, is available to persons who were employees of the transferor company, namely, LTHPL, on the date of amalgamation. If the Petitioners were on the rolls of the LTHPL, the subsidiary company, as on the date of amalgamation, the Petitioners would be justified in seeking the reliefs sought before this Court. However, much before amalgamation, the Petitioners had ceased to be employees of the LTHPL, as is evident from the appointment letters appointing them as employees of NHPC on a fixed tenure basis in the year 2019. That means, immediately after the resolution plan was approved by the NCLT, the Petitioners opted to become employees of the NHPC Limited on a fixed tenure basis. They ceased to continue as employees of the subsidiary company, i.e. the LTHPL.

9. In what manner the Petitioners ceased to become employees of LTHPL is known only to them. If the Petitioners were not employees of the LTHPL as on the date of amalgamation, they cannot claim any relief based on the amalgamation order and scheme of amalgamation. The provision in the scheme relating to continuation of the employees of the transferor company cannot be invoked by persons who were not employees of the transferor company on the date on which the scheme became effective.

10. As noted above, the Petitioners were fixed tenure employees of the NHPC Limited from 2019 onwards. In that view of the above, no relief can be granted to the Writ Petitioners.

11. Accordingly, the Writ Petition fails and is hereby dismissed.

12. No order as to costs.

Chief Justice

Approve for Reporting : No

ami/arc