

GAHC020003262023



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : WP(C)/131/2023

SHRI. SURJIT SINGH
S/O LATE SHRI. S.P. SINGH, PRESENTLY PROMOTED AS HEAD ASSISTANT,
O/O THE ADVOCATE GENERAL, NAGALAND, GAUHATI HIGH COURT,
GUWAHATI-781001

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND,
KOHIMA 2:THE SECRETARY TO THE GOVT. OF NAGALAND
DEPARTMENT OF LAW AND JUSTICE
KOHIMA NAGALAND

3:THE SECRETARY TO THE GOVT. OF NAGALAND
P AND AR DEPARTMENT
KOHIMA NAGALAND

4:THE SECRETARY TO THE GOVT. OF NAGALAND
DEPARTMENT OF FINANCE
KOHIMA NAGALAN

Advocate for the Petitioner : TONGPOK PONGENER

Advocate for the Respondent : GOVT ADV NL

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

25.04.2024

Heard Mr. Tongpok Pongener, learned counsel appearing for the petitioner. Also heard Ms. S. Mere, learned Addl. Senior Government Advocate, State of Nagaland representing the State respondents.

2. This is an application under Article 226 of the Constitution of India praying, more particularly for grant of Secretariat Level Pay Scale to the petitioner in the Pay Band of Level-14 of existing Nagaland ROP.

3. On 28.08.1988, the petitioner was appointed as an LDA-cum-Typist on contract basis for 4(four) months in the office of the establishment of the Advocate General, Nagaland at Guwahati with Pay Scale of Rs.450-Rs.805/-. By an order dated 17.11.1989, the service of the petitioner was extended until further order. Subsequently, by the order dated 13.12.2002, the contractual service of the petitioner was regularised with effect from 03.03.1993. By an order dated 07.03.2006 passed by the Principal Secretary to the Government Nagaland, Department of Justice and Law, the post of the petitioner was upgraded to the post of UDA. The petitioner was given the officiating pay to the post of UDA vide order dated 07.03.2006.

4. In the meantime, the petitioner had filed a writ petition being WP(C) No.75(K)/2017 before this Court praying for making LDA and the UDA posts in the establishment of the Advocate General equal to the similar posts of State Secretariat of Nagaland.

5. While disposing of the aforesaid writ petition, this Court had taken note of the fact that the learned Advocate General, Government of

Nagaland by communication, dated 22.05.2013, addressed to the Addl. Chief Secretary to the Government of Nagaland in the Department of P & A.R. had forwarded an application made by the petitioner claiming pay scale at par with the Secretariat employees. The learned counsel for the petitioner has also pointed out that the communication No.LAW/INFOR/2/2007(Pt.) dated Kohima the 4th Sept.2015 also states that the office of the Advocate General, Nagaland falls under the Secretariat level.

6. The present writ petition has been filed with two prayers –firstly, to set aside the impugned regularisation order dated 27.09.2019 and direct the Respondent No.3 to regularise the petitioner in the post of UDA from the date of his officiating promotion; and secondly, the petitioner should be given the Secretariat Pay Scale of Level 14.

7. The learned Addl. Senior Government Advocate representing the State of Nagaland has submitted that the first prayer of the petitioner has been accepted by the Government of Nagaland vide Corrigendum No.LAW-165/71(A). The learned counsel has submitted that the aforesaid Corrigendum marked as 'X' should be made as part of the record.

8. The learned counsel appearing for the petitioner Mr. Tongpok Pongener also admitted the aforesaid fact that his first prayer has been complied with by the State respondents.

9. The second prayer is that since the establishment of the office of the Advocate General, Nagaland is admittedly equivalent to a Secretary in the Secretariat, he should be given the Secretariat level pay scale in the Pay Band of Level 14.

10. The learned counsel for the State respondents, Ms. Mere has pointed out that when the petitioner was appointed in the service, at that time, a report of the 3rd Pay Commission was in force. According to her, the petitioner was given the pay scale of District Level LDA-cum-Typist. The learned counsel for the State respondents submitted that for the aforesaid reason, the petitioner is not entitled to Secretariat level pay

scale.

11. The learned counsel for the petitioner, on the other hand, submits that it is an admitted fact that the establishment of the office of the Advocate General, Nagaland is equivalent to the post of Secretary in the State Secretariat and that is why, this Court in WP(C) No.75(K)/2017 had directed the petitioner to file a representation seeking pay scale at par with the Secretariat employees and also directed the State to consider the representation of the petitioner, which is a part of the communication made by the learned Advocate General, Nagaland on 22.05.2013.

12. I have considered the submissions made by the learned counsel of both sides.

13. Now, the question arises as to whether the petitioner is entitled to receive the pay scale at par with State Secretariat employees in view of the admitted fact that the office of the Advocate General, Nagaland is equivalent to the Secretary of the State of Nagaland? This question has not been decided by the respondents State.

14. Therefore, it is directed that if the office of the Advocate General is equivalent to the office of a Secretary of the State of Nagaland, the State shall decide whether the employees of the establishment of the office of the Advocate General, Nagaland are entitled to the pay scale of Secretariat employees' pay scale. The State respondents shall pass speaking order to that effect.

With the aforesaid direction, the present writ petition stands closed and disposed of.

JUDGE

Comparing Assistant