

GAHC040019222025



2025:GAU-AP:1335

## **THE GAUHATI HIGH COURT**

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

### **ITANAGAR BENCH**

#### **WRIT PETITION (C) NO. 425/2025**

Robin Padung, Address : Son of Shri Tate  
Padung, Resident of Mirem Village, P.O.  
Bilat, P.S. Ruksin, District – East Siang,  
Arunachal Pradesh.

**.....Petitioner**

**-Versus-**

1. The State of Arunachal Pradesh,  
Represented by the Labour Commissioner,  
Govt. of Arunachal Pradesh, Itanagar.
2. The Secretary [Labour and Employment],  
Address : Govt. of Arunachal Pradesh.  
Itanagar.
3. The Director [Labour and Employment],  
Address : Govt of Arunachal Pradesh  
Itanagar.
4. The Chairman, Address : Arunachal Pradesh  
Staff Selection Board, Itanagar.
5. The Secretary cum Controller of  
Examination, Address : Arunachal Pradesh  
Staff Selection Board. Itanagar.

**.....Respondents**

**Advocates :**

Petitioner : Mr. N. Pada, Advocate

Respondents : Mr. S. Tapin, Senior Government  
Advocate, Arunachal Pradesh.

Date of pronouncement of judgment : 26.11.2025

Whether the pronouncement is of the  
Operative part of the judgment ? : No

Whether the full judgment has been  
Pronounced ? : Yes

**BEFORE**  
**HON'BLE MR. JUSTICE MANISH CHOUDHURY**

**JUDGMENT & ORDER**

1. In this writ petition preferred under Article 226 of the Constitution of India, the petition has inter-alia sought for a direction to the Arunachal Pradesh Staff Selection Board [APSSB] to recall or cancel an Advertisement no. 05/25 dated 05.08.2025 whereby, amongst others, online applications were invited from eligible and interested candidates to fill up a vacancy in the post of Driver [LMV] existing in the Labour and Employment Department, Government of Arunachal Pradesh. The petitioner has also sought for a direction for regularization of his service as a Driver by constituting a Departmental Promotion Committee [DPC] in terms of 'the General Arunachal Service, Group - 'C' Driver, Non-Gazetted, Non-Ministerial, Common Recruitment Rules, 2006, as amended by 'the General Arunachal Service, Group - 'C' Driver, Non-Gazetted, Non-Ministerial,

Common Recruitment [Amendment] Rules, 2024 [hereinafter referred to as 'the Group - 'C' Driver Recruitment Rules', for short] at par with similarly situated employees of the Labour and Employment Department, Government of Arunachal Pradesh.

2. The case of the petitioner is that he came to be appointed as a Contingency Driver in the Department of Labour and Employment, Government of Arunachal Pradesh by an Order dated 19.10.2012 issued under the hand of the Labour Commissioner, Department of Labour and Employment, Government of Arunachal Pradesh. By the Order dated 19.10.2012, the petitioner's appointment as Contingency Driver was given effect from the date of joining duty to 31.12.2012 at a fixed wage per month. Subsequent to the initial Appointment Order dated 19.10.2012, the service of the petitioner as a Contingency Driver in the Department continued till date. The petitioner has stated that prior to his appointment as Contingency Driver, he was in possession of a valid driving licence and the Departmental authorities had also undertaken a driving test to examine the petitioner's driving skills.
3. As one of the Contingency Drivers in the Department of Labour and Employment, namely, Paresh Das came to be regularized as a Driver on 22.09.2020 after a recommendation made by the Departmental Promotion Committee [DPC] on 18.09.2020, the petitioner who had completed more than eight years as a Contingency Driver in 2020, submitted a Representation before the respondent authorities seeking his regularization as a driver like Paresh Das. When the Representation dated 07.10.2020 was not responded to, the petitioner submitted representations in the subsequent years also renewing his prayer for regularization.

4. The petitioner has stated that as he was legitimately expecting consideration of his case for regularization as a Driver from the status of Contingency Driver, the impugned Advertisement, that is, the Advertisement no. 05/25 has come to be published by the Arunachal Pradesh Staff Selection Board [APSSB] on 05.08.2025. By the said Advertisement, online applications have invited for Non-Ministerial [Technical] Examination - 2025 from the eligible candidates for recruitment against vacancies existing in Group - 'C' posts for a nos. of Departments/Offices indicated in the Table therein. In the Table listing the posts/vacancies, it is mentioned that there is a vacancy in the post of Driver [LMV] in the Labour and Employment Department and the post is meant to be filled up by a candidate belonging to Scheduled Tribes of Arunachal Pradesh [APST].
5. It is in the above backdrop, the present writ petition has been preferred seeking the reliefs, mentioned above.
6. I have heard Mr. N. Pada, learned counsel for the petitioner; and Mr. S. Tapin, learned Senior Government Advocate, Arunachal Pradesh for the State respondents.
7. Mr. Pada, learned counsel appearing for the petitioner has submitted that the petitioner has already completed more than 12 years of service as a Contingency Driver in the Department of Labour and Employment, Government of Arunachal Pradesh. The governing rules, that is, 'the General Arunachal Service, Group - 'C' Driver, Non-Gazetted, Non-Ministerial, Common Recruitment Rules, 2006, as amended, by 'the General Arunachal Service, Group - 'C' Driver, Non-Gazetted, Non-Ministerial, Common Recruitment [Amendment] Rules, 2024 has a provision for consideration of a case of Contingency Driver to be appointed as a Driver through Limited Departmental

Competitive Examination [LDCE]. The petitioner has contended that his case shall, however, be considered for regularization like in the case of Paresh Das. It is his contention that since there is a vacancy in the Labour and Employment Department as on date, the case of the petitioner ought to have been given consideration instead of going for publication of an Advertisement to fill up the said vacancy.

8. Au Contraire, Mr. Tapin, learned Senior Government Advocate, Arunachal Pradesh appearing for the State respondents has submitted that the matters of recruitment of Drivers in the Department of Labour and Employment are regulated and governed by the Group - 'C' Driver Recruitment Rules, as amended up-to-date. As per the Group - 'C' Driver Recruitment Rules, 50% of the vacancies in the post of Group - 'C' Driver is to be filled up by way of direct recruitment conducted by the APSSB; and 25% of the vacancies are to be filled up through Limited Departmental Competitive Examination [LDCE] conducted by the APSSB from amongst the Contingency Skilled Drivers, who possess the qualification and experience, set forth therein. The remaining 25% of the vacancies are to be filled up through LDCE to be conducted by the APSSB from amongst the Handymen possessing the requisite qualification. As on date, the Department of Labour and Employment has three sanctioned posts of Group - 'C' Driver and two of the posts are occupied by two persons, namely, Minki Ete and Paresh Das. The vacancy in the post of Driver, existing as on date, which has been advertised vide Advertisement no. 05/25 is meant to be filled up by way of direct recruitment and in such view of the matter, the claim of the petitioner for his promotion to it either by way of LDCE or by way of regularization would be against the Group - 'C' Driver Recruitment Rules.

9. I have given due consideration to the submissions of the counsel for the parties and have also gone through the materials brought on record by the parties through their pleadings.
10. The petitioner has been serving as a Contingency Driver in the Department of Labour and Employment, Government of Arunachal Pradesh since its initial Appointment Order dated 19.10.2012. The petitioner in order to stake his claim for promotion/regularization in the lone substantive vacancy of Group - 'C' Driver, existing as on date, has referred to a case of one Paresh Das.
11. From the materials brought on the record, it can be noticed that Paresh Das was appointed as a Contingency Driver in the Department of Labour and Employment on 14.09.1997 and after two decades of continuous service as a Contingency Driver on a fixed wage till August, 2017, he made a representation for regularization of his service as a regular Driver against a clear vacant post. The Departmental Promotion Committee [DPC] in a meeting held on 18.09.2020 resolved to regularize the officiating appointment of Paresh Das on and from 18.09.2020 in a post of Driver. Subsequent thereto, the service of Paresh Das came to be regularized w.e.f. 18.09.2020 in a post of Driver Group - 'C' by an Order dated 18.09.2020 issued under the hand of the Labour Commissioner, Department of Labour and Employment, Government of Arunachal Pradesh.
12. As mentioned above, the State Government in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, made a set of rules namely, 'the General Arunachal Pradesh Group 'C' Driver [Non-Gazetted, Non-Ministerial] Recruitment Rules, 2006' in order to regulate the method of recruitment to the post of Driver, Group 'C' in all departments under the Government of Arunachal

Pradesh except Police, Fire Service, Jail Service and State Transport. The said Rules came to be amended by the General Arunachal Service, Group - 'C' Driver [Non-Gazetted, Non-Ministerial] Common Recruitment [Amendment] Rules, 2024. The earlier method of recruitment in filling up the post of Group - 'C' Driver which were contained in the Schedule to the Rules came to be substituted in the following manner :-

In the schedule : [i] For the entries in column 10, the following entries shall be substituted :-

[a] 50% by Direct Recruitment conducted by APSSB;

[b] 25% of the vacancies through Limited Departmental Competitive Examination [LDCE] conducted by the APSSB from amongst the Contingency Skilled Driver who possess Class X/ITI or equivalent pass Certificate from a recognized Board or Institution with 10 years of service in the concerned Department/Office.

[c] 25% of the vacancies through Limited Departmental Competitive Examination [LDCE] conducted by the APSSB from amongst the Handymen who possess Class X/ITI or equivalent pass Certificate from a recognized board or Institution with 6 [six] years of regular service in the concerned Department/Office.

The Examination Scheme for Direct Recruitment and Limited Departmental Competitive Examination shall be in accordance with the Government Notification Omnibus Rules No.

27012/2/2022-SECTT-1-AR dated 14th August, 2023, as amended from time to time.

[ii] For the entries in column 11, the following entries shall be substituted: Remaining 50% by the following manner :-

[i] 25% of vacancies shall be filled from the Contingency Skilled Driver of the Concerned Department/Office with minimum 10 years of continuous service as Contingency Skilled Driver and possessing educational and other qualifications as prescribed in column 7 through LDCE as prescribed in Column 10 above.

[ii] 25% of vacancies shall be filled from amongst the Handyman in the Pay Matrix Level - 1 18,000-56,900 p.m. of the Concerned Department/Office with minimum 6 [six] years of regular service in the grade of Handyman with educational and other qualifications as prescribed in column 7 through LDCE as prescribed at Column 10 above.

Note Below [ii] : In the event of non-availability of eligible Handyman, the vacancies to the extent available shall be filled up by Direct Recruitment.

13. By the amended rules, it has been prescribed that 50% of the vacancies in the post of Group - 'C' Driver are to be filled up by direct recruitment conducted by the APSSB. The remaining 50% of the vacancies in the post of Driver Group - 'C' are to be filled up by a Limited Departmental Competitive Examination [LDCE] to be

conducted by APSSB. Out of this remaining 50%, 25% of the vacancies are to be filled up through LDCE from amongst the Contingency Skilled Drivers who possess Class X/ITI or equivalent pass certificate from a recognized board or institution with ten years of service in the concerned Department/Office.

14. It is true that the petitioner has gained the experience of more than ten years of service as a Contingency Driver in the Department of Labour and Employment as on date and has contended that he also possesses Class X qualification. The issue, therefore, is whether the publication of the Advertisement to fill up a vacancy in the post of Group - 'C' Driver, existing as on date, in the Department of Labour and Employment, has infringed the right of the petitioner to be considered for promotion either by regularization or through LDCE for the said vacancy.
15. It has been placed on record by the State respondents that as on date, the Department of Labour and Employment has three sanctioned posts of Group - 'C' Driver. As per 80:20 reservation policy, two of the three posts are meant for Scheduled Tribes of Arunachal Pradesh [APST] and the third post is reserved to be filled up by a candidate from General category. The Department of Labour and Employment has, at present, two Drivers occupying two posts of Group - 'C' Driver. They are Minki Ete and Paresh Das. As per the post-based roster prepared vide Order no. AR-39/2010/188 dated 15.10.2010, the two posts which are reserved for promotion are being occupied by Minki Ete and Paresh Das respectively. The post held by Minki Ete is meant for Scheduled Tribe of Arunachal Pradesh [APST] and the post held by Paresh Das is meant for General category candidates [Non-APST]. The third post which is presently vacant is meant to be filled up by direct recruitment. In view of such position as reflected from the point-based roster, the Department of

Labour and Employment has no other option but to fill up the lone vacancy presently existing in the post of Group - 'C' Driver by way of direct recruitment in order to adhere to the provisions of the Rules, 2006, as amended, by the Rules, 2024.

16. Though a right to be considered for promotion is a fundamental right but such right to be considered for promotion is to be considered in terms of the extant Recruitment Rules. A set of rules framed under the proviso to Article 309 of the Constitution of India are constitutional rules and they have the same force as a statute, though made by the executive. It has been held by the Hon'ble Supreme Court of India in **CMD/Chairman, Bharat Sanchar Nigam Limited and others vs. Mishri Lal and others, [2011] 14 SCC 739**, that since a rule under the proviso to Article 309 of the Constitution is legislative in character, the rule can be amended, even with retrospective effect.
17. The case for regularization of service of Paresh Das was considered in terms of a Government's Office Memorandum dated 09.01.2022 which provided for regularization of service of contingency staff with twenty years of service. With the amendment in the Group - 'C' Driver Recruitment Rules in 2024, the only way available for a Contingency Driver to be appointed as a Driver Group - 'C' is by way of promotion through LDCE and not by way of regularization. With the substitution of the relevant rules prescribing the only method as by LDCE, the case of the petitioner cannot be considered for the post of Driver by way of regularization.
18. In the above fact situation obtaining in the case, the claim of the petitioner either for regularization or for filling up the lone vacancy existing in the post of Group - 'C' Driver in the Department of Labour and Employment even by LDCE cannot be countenanced. Thus, this

Court finds no reason to interfere with the process of selection initiated by the APSSB vide Advertisement no. 05/25 dated 05.08.2025 to fill up the lone vacancy existing in the post of Group - 'C' Driver in the Department of Labour and Employment. Consequently, the writ petition is found to be bereft of any merit and the same is liable to be dismissed.

19. The petitioner has rendered more than twelve years of continuous service as a Contingency Driver in the Department of Labour and Employment and he claims that he possesses the requisite qualification to be in the zone for consideration of his case for promotion in 25% quota reserved for candidates serving as Contingency Drivers in the Department of Labour and Employment. However, the petitioner would be in a position to stake claim for consideration of his case for promotion only in the event there exists a vacancy in 25% quota reserved for promotion to the post of Group - 'C' Driver from Contingency Drivers through LDCE, which position is not existing at present. Therefore, it might be open for the petitioner to stake his claim for promotion to the post of Group - 'C' Driver only when a vacancy arises in the quota reserved for filling up in the post of Group - 'C' Driver by way of promotion from Contingency Drivers.
20. In the light of the discussions made above and for the reasons assigned, the writ petition is dismissed. The interim order, if any, stands recalled. There shall, however, be no order as to cost.

**JUDGE**

**Comparing Assistant**