

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 10034 OF 2011

**SHRI METONGMEREN AO, (IAS RETD.),
STATE VIGILANCE COMMISSIONER,
GOVERNMENT OF NAGALAND
APPELLANT(S)**

VERSUS

**THE STATE OF NAGALAND,
THROUGH THE
CHIEF SECRETARY,
GOVERNMENT OF NAGALAND & ANR. ...
RESPONDENTS(S)**

ORDER

1. The appellant has preferred this appeal by special leave assailing the judgment dated 2nd August, 2011 rendered by the Division Bench of the Gauhati High Court, Kohima Bench in writ appeal¹ preferred by the State of Nagaland, whereby the Division Bench allowed the writ appeal and reversed the judgment dated 10th November, 2010 rendered by the learned Single Bench of the Gauhati High Court, Kohima Bench in a writ petition² filed by the appellant.

2. Shorn of details, the facts leading to the present appeal are:

1 Writ Appeal No.10(K)/2011

2 Writ Petition (C) No.117(K)/2008

The Cabinet of the Government of Nagaland decided to set up a State Vigilance Commission *vide* resolution dated 9th April, 1976. The appellant, who is an IAS Officer, post his retirement from service was appointed as a State Vigilance Commissioner in the State Vigilance Commission of State of Nagaland *vide* Notification dated 21st June, 2006 for a period of five years, which was later extended for one more year. He was offered salary equivalent to the last pay drawn by him as an IAS officer in the super time scale, minus the pension being drawn by him. The said offer was accepted by the appellant without any reservation, and he was accordingly appointed as the State Vigilance Commissioner on the pay scale offered in the Notification dated 21st June, 2006. The appellant has raised a grievance that the regular scale of pay being offered to the Chief Secretary was not offered to the appellant in the Notification dated 21st June, 2006 which was grossly arbitrary and illegal. The appellant claimed that he came to know from past precedents and relevant records that some of his predecessor State Vigilance Commissioners were paid in the pay scale of Chief Secretary of the State.

3. Accordingly, the appellant started submitting representations claiming that he should also be accorded a regular scale of pay for the post of State Vigilance Commissioner equivalent to the pay scale of Chief Secretary. When such representations did not lead to favourable results, the appellant preferred the captioned writ petition² in the Gauhati High Court, Kohima Bench claiming parity with the Chief Secretary of the State in the matter of pay and perquisites. It was the case of the appellant before the writ Court that he was entitled to the scale of the pay commensurate with the status of the post and equivalent to the pay scale of the Chief Secretary of the State. The writ petition² filed by the appellant was allowed by the learned Single Judge *vide* order dated 10th November, 2010 and it was directed that the appellant shall be entitled to a salary equivalent to the existing salary of the State Chief Secretary w.e.f. 12th March, 2008, i.e. that date of issuance of the Notification fixing the pay scale of State Vigilance Commissioner(s). Being aggrieved of the order dated 10th November, 2010, the State of Nagaland preferred an intra court writ appeal¹ which was allowed *vide* judgment dated 02nd August, 2011 and the order passed by the

learned Single Judge was quashed and set aside. The order passed by the Division Bench is subjected to challenge at the instance of the appellant in this appeal by special leave.

4. We have heard and considered the submissions advanced at the bar and have gone through the material available on record.

5. It is not in dispute that the appellant was appointed as the State Vigilance Commissioner in the State Vigilance Commission, Nagaland in pursuance of the Notification dated 21st June, 2006 for a period of 5 years, which was subsequently extended for one year. In the said Notification, it was clearly provided that the appellant being a retired IAS Officer would be granted salary equivalent to the last pay drawn by him as an IAS officer in the super time scale minus the pension being drawn by him.

6. The appellant accepted the offer so made without any reservations and was appointed as the State Vigilance Commissioner on the terms set out in the Notification dated 21st June, 2006. The acceptance of the salary and terms offered to the appellant was voluntary and it was not obligatory for him to accept so. After assuming the charge as the State Vigilance

Commissioner, the appellant started making representations claiming parity of pay scale equivalent to the rank of Chief Secretary of the State. The State Government considered his requests and constituted a Committee to examine the representation for a higher pay scale. The Committee set up by the State Government considered the representation of the appellant by giving him an enhanced pay scale of Rs. 22,400-525-24,500/-p.m. However, it would be relevant to note that the Committee did not recommend granting the pay scale equivalent to that of the Chief Secretary to the appellant.

7. The only argument advanced on behalf of the appellant in support of the plea for being accorded the pay scale equivalent to that of the Chief Secretary of State is that some predecessor State Vigilance Commissioners were paid the same pay scale as the Chief Secretary. We feel that merely because at some point in time, the State Vigilance Commissioners appointed before the appellant were getting the pay scale as the Chief Secretary, that by itself would not form a precedent so as to entitle the appellant to claim the same pay scale. The appellant unreservedly accepted the pay scale offered to him *vide* Notification dated 21st June, 2006. Having voluntarily accepted

the above offer with open eyes, it does not lie in the mouth of the appellant to claim that he should be offered a higher pay scale equivalent to the pay scale of the Chief Secretary of the State. The appellant was not obliged to join the post if the pay scale being offered was not acceptable to him.

8. Learned counsel for the appellant sought to invoke the principle of equal pay for equal work in an endeavor to seek the reliefs claimed in this appeal. We feel that such a prayer is misconceived and the principle of equal pay for equal work is not applicable to the situation at hand for the simple reason that there is only one post of State Vigilance Commissioner in the State of Nagaland, and is not as if some other State Vigilance Commissioner in the State was drawing a higher pay scale than what was offered to the appellant during the same period.

9. In wake of the discussion made hereinabove, we conclude that the view taken by the Division Bench of the Gauhati High Court in the impugned judgment is just and proper and does not warrant any interference whatsoever.

10. The appeal lacks merit and is dismissed as such. No order as to costs.

11. Pending application(s), if any, shall stand disposed of.

.....J.
(HIMA KOHLI)

.....J.
(SANDEEP MEHTA)

**NEW DELHI
29th AUGUST, 2024**

ITEM NO.102

COURT NO.9

SECTION XIV-A

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

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RESPONDENT(S)

Date : 29-08-2024 This appeal was called on for hearing today.

CORAM :

**HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA**

**For Appellant(s) Mr. Siddharth Sijoria, Adv.
Mr. Paras Nath Singh, AOR**

**For Respondent(s) Mr. K N Balgopal, Sr. Adv./AG, State of Nagaland,
Ms. K. Enatoli Sema, AOR
Ms. Limayinla Jamir, Adv.
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.**

**UPON hearing the counsel the court made the following
O R D E R**

The appeal is dismissed in terms of the signed order. Pending application(s), if any, shall stand disposed of.

**(Nand Kishor)
Court Master (NSH)**

**(Geeta Ahuja)
Assistant Registrar-cum-PS
(Signed Order is placed on the file)**