

GAHC010009832012



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

Case No. : WP(C)/5563/2012

LATUMONI SARMA
S/O LT. BISHNU SARMA R/O UPPER GORUMORA GAON P.O. GORUMORA,
P.S. PULIBOR DIST. JORHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND ORS
THROUGH THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT ,
DISPUR,GUWAHATI-6.

2:THE COMMISSIONER OF PANCHAYAT
AND RURAL DEVLEOPMENT
SIX MILE
JURIPAR
GUWAHATI.

3:THE PROJECT DIRECTOR

DISTRICT AND RURAL DEVELOPMENT AGENCY
JORHAT
P.O. and P.S. JORHAT DIST. JORHAT
ASSAM.

4:THE BLOCK DEVELOPMENT OFFICER

NORTH WEST JORHAT DEVELOPMENT BLOCK
DHEKORGARH DIST. JORHAT
ASSAM.

5:THE DEPUTY COMMISSIONER

JORHAT
P.O. and P.S. JORHAT
DIST. JORHAT
ASSAM

Advocate for the Petitioner : MRK KALITA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

08.06.2023.

1. Heard Mr. I. H. Saikia, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned Standing Counsel for the P&RD, Assam.
2. The present writ petition was filed firstly, with a prayer for a direction directing the respondents to continue the engagement of the petitioner as Junior Engineer with retrospective effect under the respondent authorities. It is submitted that the petitioner has already abandoned his job since the year 2010 as he was not paid his salary and therefore, the first prayer made in the writ petition has become infructuous and similarly the third prayer made in the writ petition was to issue a direction to regularize the service of the petitioner was also become infructuous.
3. The second prayer was to release/pay the arrears of wage/pay to the petitioner with effect from 09.09.2005 by the respondent authorities.
4. The appointment order of the petitioner, reflects that the petitioner joined as Junior Engineer on daily wages basis on the basis of an order dated 30.11.1995 issued by the Project Director, DRDA, Jorhat. The order

of appointment further reflects that the petitioner was asked to look after some ongoing scheme like IAY houses etc. under some Gaon Panchayats.

5. It is the pleaded case of the petitioner that the petitioner was paid salaries/wages upto 09.09.2005. According to him, thereafter, though he was engaged in several works but the authorities have not paid anything to the petitioner and the petitioner has been approaching the authorities claiming his dues but nothing has been paid to him.
6. The respondent No. 1 filed an affidavit and took a stand to the effect that the petitioner was paid his wages with effect from August, 1998 to 9th September, 2005 pursuant to an order dated 19.12.2006 passed by this Court in WP(C) No. 2492/2006 and the petitioner was not working after the aforesaid outstanding payment was made to him. It was also contended that the fact of the petitioner not working after such payment was intimated by Project Director to the respondent No. 1 by its communication dated 28.02.2008. It was also contended that the representation filed by the petitioner dated 07.09.2011 for release of outstanding due was rejected by an order dated 15.10.2011 by the State authorities regretting its inability to consider his prayer as he was not continuing in the job since long.
7. The Project Director, DRDA, Jorhat also filed an affidavit which reflects that the petitioner was engaged on daily wage basis @ Rs. 38/- per day.
8. In view of the aforesaid backdrop, a disputed question has been raised. On the one side, the petitioner claims that he continued to work till 27.11.2009 and the respondent contends that he worked on daily wage basis till 09.09.2005. There is no tangible material available on record to

show that the petitioner has actually worked beyond 09.09.2005. The document relied on by the petitioner to show that he is still working (Annexure-6 dated 27.11.2009) is an administrative approval whereby certain committees were constituted for implementation of certain works and those works were to be completed within two months from 27.11.2009. Such document cannot be relied on to come into a conclusion that actually the petitioner worked till 27.11.2009 and therefore, he is entitled for salary.

9. In that view of the matter, this Court finds no merit in this writ petition. Accordingly, same stands dismissed.

JUDGE

Comparing Assistant