

GAHC010023512023



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

Case No. : WP(C)/708/2023

LABANYA BORUAH
W/O- SRI BABU HAZARIKA, R/O- VILL- BATAMARI, P.O. BATAMARI, P.S.
GHILAMARA, DIST.- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, SOCIAL WELFARE DEPTT.,
DISPUR, GHY-06

2:THE DIRECTOR OF WOMEN AND CHILD DEVELOPMENT
ASSAM

3:THE DIRECTOR
SOCIAL WELFARE ASSAM
UJAN BAZAR
GHY-01

4:THE DISTRICT SOCIAL WELFARE OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

5:THE DY. COMMISSIONER
LAKHIMPUR

6:THE CHILD DEVELOPMENT PROJECT OFFICER
DHAKUAKHANA
LAKHIMPUR
ASSA

Advocate for the Petitioner : MR DEBA SARMAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

09/08/2023

Heard Mr. D Sarmah, learned counsel for the petitioner and Mr. J K Goswami, learned Additional Senior Government Advocate, Assam for the respondent Nos. 1 to 6.

2. Initially the petitioner was allowed to serve as an Anganwadi Helper in Batamari Anganwadi Center, Batamari, Dhakuakhana, District-Lakhimpur for a period of 3 (three) months w.e.f. 21.09.2005 with monthly honorarium of Rs.500/- which was not extended thereafter.

3. Later on 24.09.2015, the Child Development Project Officer (CDPO), Dhakuakhana ICDS Project, Lakhimpur allowed the petitioner to serve as Anganwadi Helper in the said Batamari Anganwadi Center for a limited period.

4. As the Anganwadi Worker of said Batamari Anganwadi Center, Smt. Binu Kumari Gogoi, retired from service on 27.06.2022, the petitioner approached the CDPO, Dhakuakhana, Lakhimpur to promote her to the vacant post of Anganwadi Worker.

5. As it was not considered, the petitioner preferred a writ petition being WP(C) No. 5286/2022 and the Court by order dated 17.08.2022 disposed of the said writ petition of the petitioner with the observation that charge over the vacant post of Anganwadi Worker at Batamari Anganwadi Center was given to one Anganwadi Worker of Noikuch Chuk Anganwadi Center and the concerned Anganwadi Center has been looked after by an in-charge Anganwadi Worker. It is up to the State respondents concerned to fill up the post but at any rate, the Center cannot be manned by an in-charge person for an unlimited duration. It would be in the interest of public that the same be filled up by appointing a regular Anganwadi Worker observing further that as and when the Anganwadi Worker for Batamari Anganwadi Centre is filled up, the case of the petitioner shall be given due consideration in view of her having the experience of Anganwadi Helper since the year 2005 and providing that the service of the petitioner should not be disturbed except in accordance with law.

6. In this writ petition, the petitioner has prayed amongst others for a direction to the respondents in the Social Welfare Department to release the arrear and current monthly honorarium payable to the petitioner.

7. The petitioner in her petition itself admitted that after her initial appointment as Anganwadi Helper of Batamari Anganwadi Centre for a period of 3 (three) months w.e.f. 21.09.2005, her service was not extended and later, by order dated 24.09.2015, the CDPO, Dhakuakhana ICDS Project, Lakhimpur allowed the petitioner to continue in her service as Anganwadi Helper in the said Batamari Anganwadi Centre.

8. The post of Anganwadi Helper/Anganwadi Worker is to be filled up by following the due procedure as per the guidelines relating to selection of Anganwadi Workers and Anganwadi Helpers and none can be appointed to such post of Anganwadi Helper/Anganwadi Worker under any Child Development Project Officer without following the due process, even on temporary basis or by adhoc means, without following the provisions under Articles 14 and 16 of the Constitution.

9. It is also placed before the Court by the CDPO, Dhakuakhana ICDS Project, Lakhimpur respondent No. 6 that by communication No. ICDS/DHAK/E-2/2019-20/1100 dated 05.08.2022, the petitioner was terminated from service from the post of Anganwadi Helper with effect from the date of issuance of the said communication.

10. It is well settled that any such payment from the public exchequer is permissible only when an appointee is appointed by following the due process and only after the valid process of appointment.

11. In the case in hand, the petitioner though made a submission that she has been allowed to work as an Anganwadi Helper under the CDPO, Dhakuakhana ICDS Project at Batamari Anganwadi Centre, but the petitioner failed to place anything before the Court that her engagement as Anganwadi Helper was as per the due process of law and by any valid process for filling up of such post.

12. For the reasons above, this writ petition, being devoid of any merit, stands dismissed.

JUDGE

Comparing Assistant