

GAHC010049742021



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

Case No. : Cont.Cas(C)/147/2021

SATYABAN DAS
S/O LATE NAGEN CH. DAS, PRESENTLY WORKING AS A CHOWKIDAR IN
THE OFFICE OF THE CHILD DEVELOPMENT PROJECT OFFICER,
CHAMARIA I.C.D.S. PROJECT, CHAMARIA, KAMRUP, ASSAM, R/O VILL.
CHAMARIA SATRA, P.O. CHAMARIA, P.S. BOKO, DIST. KAMRUP, ASSAM,
PIN 781136

VERSUS

MANOJ KUMAR, IAS AND ANR.
DIRECTOR OF SOCIAL WELFARE, GOVT. OF ASSAM, M.G. ROAD,
UZANBAZAR, GUWAHATI 01

2:SRI BIVASH MODI
ACS
DIRECTOR
WOMEN AND CHILD DEVELOPMENT
ASSAM
UZANBAZAR
GUWAHATI-01

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : MR D KALITA

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

20.07.2023

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. D. Nath, learned senior Government Advocate appears for the respondents.

2. This contempt petition has been filed by the petitioner alleging willful and deliberate disobedience of the directions contained in the order dated 10.11.2020 passed in WP(C) No. 3808/2020.

3. By the said order the writ petition was disposed of as under:-

“ ORDER

Date: 10-11-2020

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard N. Goswami, learned counsel for the respondent Nos. 1, 3 & 4 and Mr. P. Nayak, learned counsel for the Finance Department.

2. The petitioner claims to have been appointed as a Muster Roll Worker in the Office of Child Development Project Officer, Chamaria ICDS Project since the year 1992.

3. It is contended that the respondents are utilising his engagement as Chowkidar, which was approved by the Director of Social Welfare, Assam.

4. The petitioner claims that the benefit of the minimum scale of pay as provided in the judgment dated 08.06.2017 by Division Bench in W. A. No. 45/2014 (State of Assam Vs. Upen Das and others). The entitlement of the petitioner to the minimum scale would depend upon a determination of the

factual background of the petitioner as to whether he was engaged as a Muster Roll Worker and whether he is continued to work as such.

5. We are of the view that the end of the justice would be met if the Director of Social Welfare, Assam examines the claim of the petitioner from the available records and if the petitioner is found to have been working as a Muster Roll Worker from the year 1992, the required financial benefit as provided in the judgment dated 08.06.2017 in W. A. No. 45/2014 be provided to the petitioner.

6. If the Director after examining report is of the contrary view, a reasoned order may be passed and communicated to the petitioner. To enable the Director to pass necessary order, petitioner may submit the representation alongwith all the testimonials, and upon receiving the representation Director shall pass the reasoned order within a period two months thereof."

4. The learned counsel for the petitioner submits that inspite of specific directions passed by this Court in the presence of the counsels for the department and inspite of the same be communicated by way of representation dated 11.11.2020, the matter was not attended to and no order as directed by this Court has been passed by the competent authority. Being aggrieved the contempt petition is filed.

5. This Court by order dated 22.03.2021 issued notices. On 07.06.2023 submissions were made before the Court that the Director of Women and Child Development, Assam had sent a proposal for payment of minimum scale of pay in terms of the Judgment of this Court rendered in the case of the ***State of Assam –Vs- Upen Das and Ors*** reported in ***2020 (5) GLT***

605.

6. The learned senior Government Advocate was directed to apprise this Court regarding the status of the payments made to the petitioner and a compliance of the order dated 10.11.2020 passed in WP(C)/3808/2020.

7. Today when the matter is called up Mr. D. Nath, learned senior Government Advocate submits that a communication to the effect that the proposal has been rejected, has been received by him. It is submitted that the proposal for grant of minimum scale of pay to the employees (Muster Roll/Work Charged/Casual/Fixed pay) who were engaged prior to FRBM period i.e. 1st September, 2005 is rejected and the Director was requested to prefer an appeal before the Higher authority. If that be so then the directions contained in the order dated 10.11.2020 stands complied with and no further orders are necessary in the present contempt petition.

8. Taking on record the submissions made by Mr. D. Nath, learned senior Government Advocate, this Court is of the view that the directions contained in order dated 10.11.2020 to examine the claim of the petitioner has been complied with and the same stood rejected as informed by the learned senior Government Advocate. The learned counsel for the petitioner does not dispute this position.

9. Accordingly, in that view of the matter, this contempt petition stands closed. Notices issued are re-called.

JUDGE

Comparing Assistant