

GAHC010054212023



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

Case No. : WP(C)/1556/2023

NARAYAN CHANDRA DAS AND 2 ORS.
SON OF LATE MAHIDHAR DAS,
RESIDENT OF VILLAGE- SATPAKHALI,
P.O.- SATPAKHALI, P.S.- PALASHBARI,
DISTRICT- KAMRUP, ASSAM,
PIN- 781132.

2: MD. NOOR MOHD. ALI
SON OF BADIR ALI

RESIDENT OF VILLAGE- HALIGAON

P.O.- BIJOYNAGAR
P.S.- PALASHBARI

DISTRICT- KAMRUP
ASSAM

PIN- 781122.

3: KISHOR THAKURIA
SON OF BHARAT THAKURIA

RESIDENT OF HUDUMPUR (KUKURIA)

P.O.- PALASHBARI

DISTRICT- KAMRUP
ASSAM

PIN- 781128

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LTD. AND 3 ORS.
REPRESENTED BY ITS CHAIRMAN,
BIJULEE BHAWAN, PALTANBAZAR,
GUWAHATI- 781001.

2:THE MANAGING DIRECTOR
A.P.D.C.L.
REPRESENTED BY ITS CHAIRMAN
BIJULEE BHAWAN

PANBAZAR
GUWAHATI- 781001.

3:THE CHIEF GENERAL MANAGER (HRA)
THE A.P.D.C.L.
REPRESENTED BY ITS CHAIRMAN

BIJULEE BHAWAN
PANBAZAR

GUWAHATI- 781001.

4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29.03.2023

Heard Mr. K.N. Choudhury, learned Senior Counsel, assisted by Mr. H.G. Hazarika, learned counsel for the petitioners. Also heard Mr. S.P.Sharma, learned Standing Counsel, APDCL as well as Mr. P. Nayak, learned counsel appearing on behalf of the respondent No.4.

2. The petitioners before this Court were engaged as Outsourced Office-cum-Field Assistants of monthly Energy Bill of consumers under Mirza Electrical Sub-Division, APDCL (LAR), Mirza on Contractual Basis.

3. All the petitioners were engaged on different dates, the details of which are specified in the chart in Para-4 of the writ petition. The petitioner No. 1 has worked for a period of 12 years 7 months, the petitioner No. 2 has worked for 10 years 1 month and the petitioner No. 3 has worked for 11 years 6 months.

4. The grievance of the petitioners are that inspite of rendering dedicated service they have not been considered for regular appointed by the APDCL, although their services are required. The further grievance of the petitioners is that the salary payable to the regularly appointed employees are also not been paid to the petitioners, although they have been rendering their services like other regular employees. The petitioners have represented before the Authority, but their grievances have not been redressed.

5. Being aggrieved the present writ petition has been filed.

6. It is submitted by the learned counsel for the petitioners that the issues involved in this writ petition were dealt with earlier by a Co-ordinate Bench in WP (C) No.1351/2020 and accordingly, the order dated 23.02.2021 passed by the Co-ordinate Bench in WP (C) No. 1351/2020 will cover the issues raised in the present writ petition as well. Therefore, a similar order has been prayed for.

7. Mr. S.P. Sharma, learned Standing Counsel, APDCL submits that the Department will take necessary steps for looking into the grievances of the petitioners, in terms of the directions passed by this Court in WP (C)

No.1351/2020 by the order dated 23.02.2021.

8. Mr. P. Nayak, learned counsel appearing for the respondent, however, strongly objects to the prayers made by the writ petitioners.

9. Mr. Nayak submits that the prayers made in the writ petition cannot be allowed, as there is no question of regularization of the petitioners on the basis of the services rendered on ad hoc or temporary basis without subjecting the petitioners to a proper procedure laid down for recruitment to the post.

10. It is submitted by Mr. Nayak that the writ petition ought not to be allowed and the same should be dismissed.

11. I have heard the learned counsel for the parties.

12. This Court also has carefully noted the order dated 23.02.2021 passed in WP(C) No. 1351/2020. The Co-ordinate Bench upon considering the Judgments of the Hon'ble Apex Court rendered in ***State of Karnataka-Vs-Umadevi & Others*** reported in (2006) 4 SCC 1 and ***State of Punjab-Vs-Jagjit Singh*** reported in (2017) 1 SCC 148 as well as in ***Nihal Singh & Ors -Vs- State of Punjab & Ors. reported in (2013) 14 SCC 65***, disposed of the writ petition with certain directions. The directions of this Court in the order dated 23.02.2021 passed in WP(C) No. 1351/2020 are extracted as under:-

"10. Accordingly, the respondent APDCL is directed to consider the cases of the individual petitioners and if they are found to have been working for more than 10 years up to the judgment of Umadevi (supra) i.e. 10.04.2006 and were working against the sanctioned vacant post, an onetime measure may be made for their regularization. If any of the petitioners are found not to have worked for more than 10 years upto 10.04.2006, but have worked for more

than 10 years in the meantime, the respondents may consider them for a benefit of providing them the salary atleast in the minimum pay scale that are otherwise payable to an equivalent regularly appointed employee, which again would be consistent with the directions of the Division Bench of this Court in the judgment dated 08.06.2017 passed in WA 45/2014."

"11. As regards any of the petitioners who may not have satisfied the requirement of having worked continuously for 10 years, we request the respondent APDCL to also consider their case and find out a suitable economic package for them as per the acceptability of the respondent APDCL. Ordered accordingly. "

13. Upon hearing the learned counsels for the parties, this Court is of the view that this writ petition can also be disposed of with a direction to the respondent authorities, more particularly, the APDCL authorities will look into the grievances of the petitioners in the light of the directions/observations passed by this Court in the order dated 23.02.2021 passed in WP(C) No. 1351/2020, as held more particularly, in Para 10 and 11 of the Court.

14. The Writ petition is, accordingly, disposed of.

15. In terms of the above, no order as to costs.

JUDGE