

GAHC010207402023



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

Case No. : WP(C)/5436/2023

KARABI CHOUDHURY
W/O BHUPEN CH. KUMAR, R/O VILL- 2 NO. DIMU (KUMAR SUPA), P.O.-
KSHUDRADIMU, P.S.-RANGIA, DIST- KAMRUP (ASSAM), PIN-781380

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR
SOCIAL WELFARE DEPARTMENT
ASSAM
UZANBAZAR
GUWAHATI-1

3:THE DISTRICT SOCIAL WELFARE OFFICER
KAMRUP
AMINGAON
GUWAHATI-31

4:THE CHILD DEVELOPMENT PROJECT OFFICER
KAMALPUR-RANGIA ICDS PROJECT
RANGIA
DIST-KAMRUP
ASSAM
PIN-781354

5:JYOTI KUMAR
W/O HIMANGSHU KUMAR
R/O VILL- 2 NO. DIMU
P.O.-KSHUDRADIMU
P.S.-RANGIA
DIST-KAMRUP

ASSAM
PIN-78138

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

22.09.2023.

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Ms. M. Bhattacharjee, learned counsel for the Social Welfare Department.

2. The petitioner's case in brief is that the petitioner had taken part in the Selection Process for appointment to the post of Anganwadi Helper, pursuant to Advertisement dated 29.03.2021. The person who secured the first position in the merit list declined to join the post of Anganwadi Helper and as such, the petitioner, who was in the second position was expecting to be appointed to the said post. However the State respondents appointed the respondent No.5, who had secured the third position in the merit list, instead of the petitioner who had secured the second position in the merit list.

3. Ms. M. Bhattacharjee, learned counsel for the Social Welfare Department has submitted letter No.CDPO (KPR)E/1/95/Pt-IV/, dated 21.09.2023 issued by the respondent No.4, which states that one Dipali Kumar had been appointed as Anganwadi Helper in 2 No. Dimu Kumar Suba Anganwadi Centre, on the basis of merit and as per the selection guidelines. However, Dipali Kumar did not join the post. Thereafter the Project Level Selection Committee through a review cum re-verification on 16.12.2022, decided to send the names of the petitioner who

had secured the second position and the respondent No.5, who had secured the third position, for the approval to the Director, Women and Child Development, Assam. Thereafter a letter dated 19.05.2023 was received from the Directorate of Women and Child Development, Assam, wherein the candidature of the respondent No.5 was approved for the post of Anganwadi Helper. The letter also stated that the respondent No.5 had secured the third position as per the approval of the Selection Committee.

4. The contents of the letter dated 21.09.2023, issued by the CDPO, Kamalpur-Rangia ICDS Project is made a part of the record and marked as Annexure-X. The contents of the same is as follows:

“Sub.: Regarding enquiry of court case of Karabi Choudhury vs. The State of Assam.

Ref: WP(C) No.5436 of 2023, Karabi Choudhury vs. The State of Assam.

Sir,

With reference to the subject cited above I have the honour to submit you the following findings

1. The interview of AWH was held in 28/5/2022. Initially the selection committee appointed Dipali Kumar in the post of AWH in 2 no Dimu Kumar Suba AWC on the basis of merit and as per the selection guidelines. But she relinquished and did not join the post.

2. The Project Level Selection Committee through a review cum re-verification on 16/12/2022 decided to send the names of the candidate who's in the 2nd position named Karabi Choudhary and 3rd position named Jyoti Kumar for the approval of Director, WCD, Assam vide letter no CDPO(KPR)E/1/95/Pt-IV/592, dtd. 03/03/2023.

3. Letter received from Directorate of WCD DCWD (ICDS)E/135/2019/PT/335, dtd.19/05/2023 it was informed that Dipali Kumari, W/o. Jyotish Ch. Kumar as AWH at 2 no Dimu Kumar Suba AWC which was approved earlier is hereby stand cancel and the following candidate Smti Jyoti Kumar is approved for the post of Anganwadi Helper. Jyoti Kumar was in the 3rd Position as per the initial approval of Selection Committee.”

5. On perusal of the above letter dated 21.09.2023, the same clearly shows that there is no dispute with regard to the fact that the petitioner had secured

the second position in the merit list and the respondent No.5 had secured the third position in the merit list. As the person who had secured the first position in the merit list had decided not to join the post of Anganwadi Helper, it was incumbent on the State respondent to have appointed the petitioner, as she was the next in line in the merit list. No reasons have been given in the letter dated 21.09.2023 for appointing the respondent No.5, in lieu of the petitioner. The petitioner having secured a better position in the selection process for appointment to the post of Anganwadi Helper, the approval given by the Directorate of Women and Child Development, Assam, for appointment of the respondent No.5, in the absence of any reason for doing the same over the candidature of the petitioner is arbitrary and violative of Article 14 of the Constitution.

6. Accordingly the approval given by the Directorate of Women and Child Development, Assam for appointment of the respondent No.5 as Anganwadi Helper and any further consequential order passed in pursuant to the same is hereby set aside.

7. The State respondents are directed to appoint the petitioner as Anganwadi Helper in respect of 2 No. Dimu Kumar Suba Anganwadi Centre, within a period of one week from the date of receipt of a copy of this order. Consequently, the letter No.CDPO(KPR/E-1/part-2017/641, dated 30.05.2023, issued by the respondent No.4 is hereby set aside.

8. With the above direction, the Writ Petition stands disposed of.

JUDGE

Comparing Assistant