

GAHC010213202022



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

Case No. : Review.Pet./163/2022

CHARU BALA DAS AND 2 ORS.
D/O- SRI HARI DAS, VILL.- DAHUDI, P.O.- SOLMARA, P.S.- BELSOR, DIST.
NALBARI, ASSAM, PIN- 781338.

2: SARIFA BEGUM
D/O- LATE SHERO ALI
VILL. CHAMATA
P.O.- PASCHIM CHAMATA
P.S.- BELSOR
DIST.- NALBARI
ASSAM
PIN- 781338.

3: KHADEJA BEGUM
W/O- TAIJUDDIN AHMED
VILL.- BARKHETRI BARNI
P.O.- BANOGRAM
P.S. BELSOR
DIST.- NALBARI
ASSAM
PIN- 781303

VERSUS

THE STATE OF ASSAM AND 4 ORS .
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, SOCIAL WELFARE DEPARTMENT, ASSAM, DISPUR, GUWAHATI-
781006.

2:THE DIRECTOR
SOCIAL WELFARE DEPARTMENT
ASSAM
UZANBAZAR
GUWAHATI- 781001.

3:THE DIVISIONAL PROGRAMME OFFICER
KAMRUP
BELTOLA
GUWAHATI- 781028.

4:THE DISTRICT SOCIAL WELFARE OFFICER
NALBARI
ASSAM.

5:THE CHILD DEVELOPMENT PROJECT OFFICER
PASCHIM NALBARI ICDS PROJECT
CHAMATA
NALBARI
ASSAM

Advocate for the Petitioner : MR B SINHA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 30-01-2023

Heard Mr. B Sinha, learned counsel for the review petitioners, who submits that the order dated 07.09.2022 passed in WP(C) No. 5912/2022 should be set aside, to enable the petitioner to participate in the promotion process for the post of Anganwadi Workers in 100 No. Solmara Anganwadi

Centre, 81 No. Chamata Fakir Tala Moktab Anganwadi Centre and 50 No. Barkhetri Narni Anganwadi Centre respectively, in terms of the advertisement dated 24.08.2022.

2. He submits that this Court had dismissed WP(C) No. 5912/2022, vide order dated 07.09.2022, on the ground that the petitioners had approached this Court after the last date of submission of the application forms of candidates was over.

3. He also submits that the order dated 07.09.2022 passed in WP(C) No. 5912/2022 was challenged before the learned Division Bench, vide WA No. 310/2022 and the learned Division Bench was pleased to give liberty to the petitioners to file a review petition before this Court, on the ground that certain grounds which had been raised before this Court had not been considered by this Court.

4. Mr. B Sinha, learned counsel for the review petitioners submits that the sole issue that has to be decided by this Court is with regard to the age bar/criteria prescribed in the advertisement dated 24.08.2022, which provides that the age of a candidate for promotion from the post of Anganwadi Helper to Anganwadi Worker should not be above 45 years of age.

5. The petitioners' counsel submits that there should not be any age bar of

Anganwadi Helpers, for promotion to Anganwadi Workers and as such, the petitioners should also be allowed to participate in the selection process for promotion from Anganwadi Helpers to Anganwadi Workers, in terms of the advertisement dated 24.08.2022.

6. Mr. P Saikia, learned counsel for the State respondents submits that there is no error apparent on the face of the impugned order dated 07.09.2022 passed in WP(C) No. 5912/2022. He also submits that no special reason is forthcoming in the submission made by the counsel for the review petitioners, to warrant any interference with the order dated 07.09.2022. He also submits that the grievance of the petitioners in the earlier round of litigation before this Court and the present grievance is the same and no new ground has been taken by the review petitioners' counsel today.

7. I have heard the learned counsels for the parties.

8. The petitioners had approached this Court by way of WP(C) No. 5912/2022, to allow them to participate in the selection process for the post of Anganwadi Helpers. However, the advertisement dated 24.08.2022 provided that the age of the candidates shall not be above 45 years in terms of Clause-6 of the Government notification dated 04.03.2013 issued by the Government of Assam, Social Welfare Department. The petitioners are 57 years, 53 years and

47 years respectively.

9. This Court, on considering the prayer of the petitioners to participate in the selection process for promotion, dismissed the writ petition on the ground that the petitioners had approached this Court only on 06.09.2022, while the last date of submission of applications of candidates in terms of the advertisement dated 24.08.2022 was 03.09.2022. This Court had accordingly dismissed the petition on the ground that the petitioners had missed the bus.

10. The petitioners, being aggrieved, approached the learned Division Bench by way of WA No. 310/2022. The learned Division Bench in its order dated 27.09.2022 recorded the contention of the review petitioners' counsel, which is to the effect that certain grounds, which had been raised before this Court had not been considered. The learned Division Bench held that they did not find any such contention having been raised before this Court. However, as the learned counsel for the review petitioners' contended that grounds that had been taken in the writ petition had not been dealt with by the learned Single Judge, liberty to file the review petition was given by the learned Division Bench. The order dated 27.09.2022 passed in WA No. 310/2022 is reproduced below:-

“Heard Mr. B. Sinha, learned counsel for the appellant.

It is contended by the learned counsel for the appellant that certain grounds which had been raised before the learned Single Judge have not

been considered.

We do not find any such contention having been raised before the learned Single Judge. Still, however, learned counsel for the appellant contends that those grounds have been taken in the writ petition but not dealt with by the learned Single Judge.

With a liberty to file a review application before the learned Single Judge, the instant appeal is disposed of at this stage.”

11. As can be seen from the above order dated 27.09.2022 passed by the learned Division Bench, the petitioners’ case is that certain grounds, which had been raised before this Court had not been considered by this Court. However, as can be seen from the preceding paragraphs, the only contention raised by the review petitioners’ counsel before this Court today, is that there should not be any age bar for promotion from Anganwadi Helpers to Anganwadi Workers, thereby enabling the petitioners to participate in the selection process.

12. On considering the ground taken by the review petitioners’ counsel today, this Court finds that the same and only ground had been taken by the review petitioners during hearing and disposal of WP(C) No. 5912/2022. This Court had not allowed the writ petition, in view of the fact that the last date for submission of applications of candidates had already expired, prior to the petitioners approaching this Court. As the said issue has already been decided and no new ground/issue is forthcoming today, this Court finds that no case for review has

been made out.

13. The Review Petition is accordingly dismissed.

JUDGE

Comparing Assistant