

GAHC010218462023



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

Case No. : WP(C)/5783/2023

AFIYA BEGUM CHOUDHURY
W/O- LATE ABDUL HAQUE BARBHUIYA, R/O- VILL- PAIKAN SOUTH, P.O.-
GUMRAH, P.S. KATIGORAH, DIST.- CACHAR (ASSAM), PIN NO.- 788815

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, WOMEN AND CHILD DEVELOPMENT
DEPARTMENT (EARLIER SOCIAL WELFARE DEPARTMENT) DISPUR,
GUWAHATI-6, ASSAM

2:THE DIRECTOR
WOMEN AND CHILD DEVELOPMENT (EARLIER SOCIAL WELFARE)
ASSAM
UZAN BAZAAR
GUWAHATI-1
ASSAM

3:THE DISTRICT WOMEN AND CHILD DEVELOPMENT OFFICER
MEHERPUR
SILCHAR
ASSAM

4:THE CHILD DEVELOPMENT PROJECT OFFICER
KALAIN ICDS PROJECT
CACHAR
ASSA

Advocate for the Petitioner : MR I AHMED

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

04.10.2023

1. Heard Shri I. Ahmed, learned counsel for the petitioner. Also heard Shri A. Chakraborty, learned State Counsel for all the respondents.

2. The petitioner is working as an Anganwadi Helper in the Paikan South Anganwadi Centre No. 132, under the Kalain ICDS Project which she claims to be serving since the year 2007. It is stated that the Anganwadi worker of the said Centre had resigned in the year 2020 and therefore, a vacancy of Anganwadi worker is existing in the Centre. The petitioner has submitted representation for consideration of her case for promotion to the said post which has not been considered.

3. Shri Ahmed, the learned counsel for the petitioner has based his claim on a notification dated 04.03.2013 which lays down the guidelines for appointment. Reference has been made to Clause 2 and Clause 3 of the said notification. He accordingly submits that appropriate directions may be issued for consideration of the case of the petitioner.

4. *Per contra*, Shri Chakraborty, the learned State Counsel has submitted that the present claim is not only untenable in law but also misconceived. He submits that the notification dated 04.03.2013 lays down the guidelines and Clause 2

and Clause 3 thereof only stipulates the eligibility criteria for Anganwadi Helpers to be promoted to the post of Anganwadi workers. He has also referred to Clause 10 as per which, the vacancies are to be filled up by open advertisement.

5. To adjudicate the issue, it would be convenient if the relevant clauses of the notification dated 04.03.2013 are taken into consideration which reads as follows:

“2. Only those Anganwadi Helpers shall be eligible for promotion under this scheme who have been in continuous service for a period for 10 years and above as Anganwadi Helpers in any duly sanctioned Anganwadi centre.

3. Only those Anganwadi Helpers shall be eligible for promotion under this scheme who have passed Class IX examination from school / Madrassa duly recognized by the Board of Secondary Education, Assam.

10. It shall be the responsibility of the CDPOs to determine the vacancies and advertise them calling for application from the eligible Anganwadi Helpers with prior permission of the Director, Social Welfare, Assam.”

6. While Clause 2 stipulates that to be eligible for promotion, an Anganwadi Helper is required to be in continuous service for a period of 10 years in any duly sanctioned Anganwadi Centre and as per Clause 3, the educational qualification has also been stipulated. The mode of recruitment however has been stated in Clause 10 as per which the vacancies are to be filled up by advertising the same and calling application from all eligible Anganwadi Helpers. From the aforesaid clause it appears that though the petitioner might have

fulfilled the eligibility criteria, that by itself will not vest her any indefeasible right to claim promotion without going by the recruitment process as envisage under Clause 10.

7. This Court finds force in the argument of Shri Chakraborty, the learned State Counsel that the present petition has been filed with a misconceived notion by placing reliance on Clause 2 and Clause 3 of the notification which only relates to the eligibility criteria.

8. In view of the above, this Court is of the opinion that there is no merit in this petition and accordingly, the same is dismissed.

JUDGE

Comparing Assistant