

GAHC010219612023



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

Case No. : WA/391/2023

LABANYA BORUAH
W/O- SRI BABU HAZARIKA, R/O- VILL- BATAMARI, P.O. BATAMARI, P.S.
GHILAMARA, DIST.- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF ASSAM, SOCIAL WELFARE DEPTT.,
DISPUR, GHY-06

2:THE DIRECTOR OF WOMEN AND CHILD DEVELOPMENT
ASSAM

3:THE DIRECTOR
SOCIAL WELFARE ASSAM
UJAN BAZAR
GHY-01

4:THE DISTRICT SOCIAL WELFARE OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

5:THE DY. COMMISSIONER
LAKHIMPUR

6:THE CHILD DEVELOPMENT PROJECT OFFICER
DHAKUAKHANA
LAKHIMPUR
ASSA

For the appellant : Mr. Deba Sarma, Advocate
For the respondents : Ms. M.D. Borah,
Govt. Advocate, Assam

– B E F O R E –

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KARDAK ETE

13-10-2023

S. Mehta, C.J.

The instant intra-Court writ appeal is directed against the judgment and order dated 09.08.2023 dismissing the writ petition, being, WP(C) 708/2023 preferred by the petitioner (appellant herein).

By way of the aforesaid writ petition, the appellant/writ petitioner sought a direction to the respondent Social Welfare Department to release the arrear and current monthly honorarium payable to the petitioner. The learned Single Judge, upon examining the pleadings of the petitioner and the affidavit of the respondents and so also the order passed in the earlier round of litigation, being, WP(C) 5286/2022, which was disposed of vide order dated 17.08.2022, held that the petitioner was initially allowed to serve as Anganwadi Helper in the Batamari Anganwadi Centre, Batamari, Dhakuakhana in the district of Lakhimpur for a period of three months w.e.f. 21.09.2005. The said engagement was not extended. In the year 2015 also, the CDPO, Dhakuakhana, ICDS Project, Lakhimpur allowed the petitioner to serve as Anganwadi Helper for a limited period. In the year 2022, the appellant/writ petitioner approached the CDPO upon retirement of the Anganwadi Worker of Batamari Anganwadi Centre Smt. Binu Kumari Gogoi w.e.f. 27.06.2022, with a prayer to promote her to the vacant post of Anganwadi Worker. However, the said prayer was not acceded

whereupon WP(C) 5286/2022 was filed by the appellant/writ petitioner. The learned Single Bench disposed of the said writ petition vide order dated 17.08.2022 observing that the vacant post of Anganwadi Worker at Batamari Anganwadi Centre were being looked after by an in-charge Anganwadi Worker. It is up to the State respondents to fill up the said post but the Centre could not be manned by an in-charge person for an unlimited duration. The learned Single Judge also observed in the order dated 17.08.2022 that as and when the post of Anganwadi Worker of Batamari Anganwadi Centre is filled up, the case of the petitioner shall be given due consideration taking into account her experience as Anganwadi Helper since the year 2005.

From the pleadings and the documents available on record, we find nothing which can convince the Court that the appellant/writ petitioner's engagement as Anganwadi Helper at the Batamari Anganwadi Centre in the year 2005 was formally extended beyond the period of three months. Even in the year 2015, a random order was passed without any background facts allowing the appellant/writ petitioner to continue as Anganwadi Helper. The order dated 24.09.2015 also provided that the engagement was purely temporary and may be terminated without assigning any reasons thereof. Apparently, thus, the appellant/writ petitioner was never engaged as Anganwadi Helper pursuant to any formal process of selection and hence, she cannot claim any lien on the said post. The prayer made by the petitioner in the captioned writ petition was limited to the extent of granting her salary for the period she had performed her duties. As no material was placed on record of the writ petition to show the exact duration for which the appellant/writ petitioner had performed her duties in the year 2022, the learned Single Judge rightly rejected the writ petition of the appellant/writ petitioner.

Having heard and considered the submissions advanced by learned counsel Mr. D. Sarma, representing the appellant, and Ms. M.D. Borah, learned Government Advocate, and after going through the material available on record, we are of the firm opinion that the impugned dated 09.08.2023, passed by the learned Single Judge in WP(C) 708/2023, does not suffer from any infirmity warranting interference in this intra-Court writ appeal.

The writ appeal thus fails and is dismissed as being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant