

GAHC010225182016



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

Case No. : WP(C)/4554/2016

SINDHUMANI RABHA and 3 ORS
S/O. LT. BHUBANESWAR RABHA, VILL. TATLAPARA, P.O. THAMNA, DIST.
BAKSA, ASSAM, ASSTT. TEACHER OF PUB BUNBARI L.P. SCHOOL.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, EDUCATION
DEPTT., DISPUR, GHY.-06.

Advocate for the Petitioner : MS.A BARUAH

Advocate for the Respondent : SC, ELEMENTARY EDUCATION

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 17.02.2023

Heard Mrs. A. Bujarbaruah, the learned counsel appearing on behalf of the petitioners and Mr. P. N. Sharma, the learned Standing counsel appearing on behalf of the respondent Nos. 1 and 2. I have also heard Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the respondent No.3; Mr. B.

Choudhury, the learned Standing counsel appearing on behalf of the respondent Nos. 4, 5, 6 and 7; Mr. Pranab Jyoti Das, the learned Standing counsel appearing on behalf of the respondent Nos.9 and 10.

2. The instant writ petition has been filed by the 4 (four) petitioners claiming that they were appointed vide separate orders on 04.12.1999 as Stipendiary Teachers against the sanctioned post as per Memo No.1576-78 dated 04.12.1999 issued by the Deputy Inspector of Schools, Nalbari vide Government letter No.192/72/5 dated 25.01.1973 as per DEE's communicated letter No.EAA.99/94/192 dated 31.12.1998 as a Stipendiary Teacher at Rs.900/- per month from the date of joining. The petitioner Nos. 1 and 2 were post were posted at Bunbari L.P. School and Petitioner No.3 was posted at Kataligaon, Tatalapara L.P. School and petitioner No.4 was posted at No.2 Bhehbari L.P. School under Baksa District.

3. The case of the petitioners is that after being appointed, they have rendered service in their respective schools and have also represented before the authorities for sending them for training but neither the respondent authorities have paid them their stipend nor regularized their services for which the petitioners are before this Court.

4. On the other hand, the respondent Nos. 4, 5, 6 and 7 have filed an affidavit-in-opposition. A perusal of the said affidavit-in-opposition shows that there is a complete denial that the petitioners joined in the school or was working as Assistant Teachers in their respective schools. The said aspect of the matter can be seen from paragraph No.5 of the affidavit-in-opposition which is reproduced hereinbelow:

“5. That with regard to the statements made in paragraph 4 of the writ petition the answering deponent begs to state that the Block Elementary Education Officer, Baksa, Mushalpur physically verified the respective schools. During verification he found that the petitioners were neither joined in the School nor working as assistant teacher in respective schools. In the connection the Head Teacher of the respective schools furnished acknowledgement before the said authority as follows:

(i) Md. Ajit Ali, present Head Teacher of Pub-Bunbari L.P. School confesses that no teachers namely Sri Sindhumani Rabha and Sri Pradip Das were joined in Pub-Bunbari L.P. School. Besides he reported that there are no particulars in School custody of said teachers and he has never seen the above mentioned petitioners in the respective School.

(ii) Sri Madhu Ram Baro, present Head Teacher of Kataligaon Tatlapara L.P. School confesses that he has been working as Head Teacher in the said School since 2002. He informed that during his period of taking Head Teacher charge he has not seen the teacher namely Sri Samar Rabha as well as signature of that person in the teacher attendance register.

(iii) Sri Khagendra Nath Das, present Head Teacher of 2 No. Bhehbari L.P. School informed that he has taken the Head Teacher charge of the said School since September, 2015. During his period of Head Teacher no teacher namely Sri Satish Choudhury has been working.

(iv) Sri Pancha Chandra Das, the then Head Teacher of 2 No. Bhehbari L.P. School who retired from the said School on 31/12/2015 also confesses that no teacher joined in the year 1999 namely Sri Satish Choudhury.”

5. It further stated that the Block Elementary Education Officer, Baksa, Mushalpur who had taken the charge of Block Elementary Education Officer,

Baksa, Mushalpur on 29.04.2014 and was serving till the date of filing of the said affidavit have also intimated that during the said period no teachers approached him for releasing the monthly salary. The said Block Elementary Education Officer had also confirmed to the deponent of the said affidavit that he had never conducted inspection in the respective schools of the petitioners. It was further mentioned that the petitioners were not working as teachers in their respective schools. Further to that, it was also denied that any representation of the petitioners for deputation to go under the Junior Basic Training has been received by the Block Elementary Education Officer, Baksa, Mushalpur. Further to that, the respondent Nos. 9 and 10 who are the Head Masters of Kataligaon, Tatalapara L.P. School and No.2 Bhehbari L.P. School respectively, have in their affidavit categorically stated that Sri Madhu Ram Boro, the respondent No.9 took charge of the Head Teacher of Kataligaon, Tatalapara L.P. School in place of one Sri Satya Boro. He further stated that he does not know the writ petitioner No.3 as well as writ petitioner No.4 nor have seen them teaching in his school. He also categorically stated that the writ petitioner Nos. 3 and 4 have not signed in the Attendance Register of the school till date and he had never issued any type of certificate [Annexure-5(C)] to the writ petition in favour of the writ petitioner No.4. It was stated that the certificate i.e. Annexure-5(C) is completely false, forged and as such the writ petitioner is liable to be with proper legal action.

6. The respondent No.10 who is the In-charge of Head Teacher of No.2, Bhehbari L.P. School has also stated that he had not seen the writ petitioner No.4 who had claimed to be an Assistant Teacher working in No.2 Bhehbari L.P. School. He further stated that the extract of the Attendance Register with his signature claiming to be Attendance Register of No.2 Bhehbari L.P. School

submitted by the writ petitioner No.4 is false, manipulated and forged.

7. Upon hearing the learned counsels for the parties and upon perusal of the materials on record, it transpires that the fact as to whether the petitioners were actually appointed vide various orders enclosed as Annexure 2, 2(A), 2(B), 2(C) are in dispute. It is further disputed as to whether the petitioners have joined in their respective schools pursuant to the said appointment orders. It is further disputed that the documents on the basis of which the petitioners claims to be in service or rendering service in their respective schools have also been disputed by the respondents.

8. Consequently, these disputed questions of facts cannot be adjudicated by this Court. Under such circumstances, as serious disputed questions of facts arises in the instant case, this Court has no other alternative but to dismiss the writ petition on the said ground.

9. Accordingly, the instant writ petition stands dismissed.

JUDGE

Comparing Assistant