

GAHC010228812023



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

Case No. : WP(C)/6000/2023

SHIBANI CHAKRABORTY
WIFE OF BINDU CHOUDHURY,
RESIDENT OF VILLAGE- MONACHARA GRANT,
P.O.- MONACHARA, P.S.- LALA,
DISTRICT- HAILAKANDI,
PIN- 788164.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
DEPARTMENT OF SOCIAL WELFARE,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR
WOMEN AND CHILD DEVELOPMENT
ASSAM
UZANBAZAR
GUWAHATI- 781001.

3:THE DISTRICT SOCIAL WELFARE OFFICER
HAILAKANDI
P.O.
P.S. AND DISTRICT- HAILAKANDI

ASSAM
PIN- 788151.

4:THE CHILD DEVELOPMENT PROJECT OFFICER
ICDS PROJECT
LALA

HAILAKANDI
P.O. AND P.S.- LALA

DISTRICT- HAILAKANDI
PIN- 788163

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

10.10.2023

Heard Ms. R Choudhury, learned counsel for the petitioner. Also heard Shri SR Baruah, learned State Counsel, Assam.

2. Considering the subject matter involved and the prayers made, this writ petition is taken up for disposal at the motion stage itself.

3. The petitioner claims to be appointed as Anganwadi Helper in the year 2008 in the Center No. 85, Monacherra Grant, Lala in the district of Hailakandi. Though the initial appointment was on ad hoc basis for two months, the petitioner was allowed to continue and is doing so. The petitioner further contends that the Anganwadi Worker in the said Centre was promoted to the post of Supervisor and in the said vacancy, the services of the petitioner was utilized as Anganwadi Worker.

4. On 23.06.2022, an advertisement was issued for filling up the post of Anganwadi Worker in which the petitioner had applied but there was no

response. The petitioner is now aggrieved by an advertisement dated 21.09.2023 for filling up the said post.

5. Ms. Choudhury, learned counsel for the petitioner has submitted that the petitioner is rendering continuous service for almost one and half decades and by ignoring the same, the present advertisement has been issued that too, by reserving the post of SC candidate. Reliance has also been placed upon a notification dated 04.03.2013 laying down the guidelines for appointment and emphasis has been laid on Guideline No. 2 which requires 10 years continuous service for the Anganwadi Helpers to be eligible for consideration to the post of Anganwadi Worker.

6. Ms. Choudhury, learned counsel, accordingly submits that the impugned advertisement be interfered with and a direction be issued for consideration of the case of the petitioner for promotion.

7. *Per contra*, Shri Baruah, learned State Counsel has submitted that the petition has been structured on a misconceived notion. By referring to the notification dated 04.03.2013 which lays down the guidelines, the learned State Counsel has submitted that the guidelines only relate to the eligibility criteria and does not vest any indefeasible right to claim promotion. He has also referred to Guideline No. 3 as per which, the educational qualification has also been laid down.

8. At this stage, Ms. Choudhury, learned counsel for the petitioner submits that the petitioner is the only Anganwadi Helper in the Centre.

9. After hearing the parties, this Court is of the opinion that the notification dated 04.03.2013 which lays down the guidelines only pertains to the eligibility criteria and cannot be construed to vest any indefeasible right to claim promotion to an Anganwadi Helper aspiring to become an Anganwadi Worker. Though the facts, as projected, may lead this Court to a conclusion that the petitioner is eligible, such eligibility is only with regard to the participation in the promotional exercise which has to be done by giving opportunity to all similarly situated eligible candidates.

10. The petition is, accordingly held to be misconceived and is, therefore, dismissed.

JUDGE

Comparing Assistant