

GAHC010005032014



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

Case No. : WP(C)/325/2014

GUNADHAR UZIR and 2 ORS.
S/O- LT. KALARAM UZIR, VILL. and P.O.- RAMPUR, DIST.- BAKSA.

2: GHANASHYAM BHAGABATI
S/O- LT. BAHU NATH SARMA
VILL. and P.O.- DAHAKAUNIAY
DIST.- NALBARI.

3: KARUNA DEKA
S/O- LT. HARENDRA DEKA
VILL.- NASHATRA
P.O.- NASHATRA SARTHEBARI
DIST.- BARPETA

VERSUS

THE UNION OF INDIA and 2 ORS
REP. BY THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI.

2: THE SASASTRA SEEMA BAL
REP. BY ITS DIRECTOR GENERAL
S.S.B. DEPTT.
MINISTRY OF HOME AFFAIRS
GOVT. OF INDIA
NEW DELHI EAST BLOCK
NEW DELHI- 110006.

3: THE INSPECTOR GENERAL
S.S.B. FRONTIER HEAD QUARTER UDAY PATH
R.G. BARUAH ROAD GHY- 3

Advocate for the Petitioner : MR.S K MEDHI

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 10.06.2024

Heard Mr. S. R. Rabha, learned counsel for the petitioner and Mr. R. K. D. Choudhury, learned Dy. SGI for the respondents.

2. The petitioners by way of instituting the present proceeding have raised a grievance with regard to an order dated 29.05.2013 issued by the Director General, Sashastra Seema Bal (in short, 'SSB'), rejecting the prayers as made by the petitioners for preparation and implementation of a scheme for payment of pension and for financial assistance to the petitioners, whose services as Intensive Trained Volunteers under the Sashastra Seema Bal organization were discontinued.

3. The petitioners' herein were recruited as Members of the Sashastra Seema Bal as Intensive Trained Volunteers. It is contended that the petitioners had to undergo rigorous training for the aforesaid purpose and had undertaken such training in Haflong, North Cachar Hills. The petitioners contended to have also been trained in armed combat. On completion of the training, the petitioners were engaged for vigilance and mobilization purposes and they were also utilized for various social purposes such as constructions of roads, dams, dykes, school buildings etc.

It is contended that in the year 2001, the training of the Intensive Trained Volunteers was stopped and the office as existing in the State of Assam was

shifted to Barauni in the State of Bihar. During the period the petitioners were so engaged, they were paid wages at different rates and with the same, they content to have met their basic expenses and also catered to the needs of their family. The services of the petitioners were utilized for at least 45 days every three months and they were also given uniforms. Upon the cessation of the said program, the petitioners herein were left without any means of livelihood, inasmuch as there was no scheme prepared for payment of any retirement benefits like pension, provident fund, gratuity etc.

4. Being aggrieved by the treatment as meted out and also non-consideration of the representation submitted in the matter, the petitioners approached this Court by way of instituting WP(C) 2281/2008 and this Court, vide order dated 28.01.2023, was pleaded to dispose of the said writ petition with a direction to the respondents to consider framing of a scheme for pension or for any other financial benefits to the Intensive Trained Volunteers, whose services were discontinued on health grounds.

5. It is in pursuance of the said direction that the respondent authorizes had issued the order dated 29.05.2013 by which the said grievance as raised by the petitioners in the matter came to be rejected.

A perusal of the order dated 29.05.2013 would reveal that the direction passed by this Court was so passed by following a similar direction passed by the High Court, Himachal Pradesh, Shimla in CWP Nos. 469/2007, 470/2007 and 506/2007, wherein a similar direction to frame a scheme for absorption of a person like the petitioners in Armed Forces/Mara Military Forces including Special Security Bureau, taking into consideration the specialized training

received by them, was so passed.

6. It is contended in the said order dated 29.05.2023 that a change in the role of the Sashastra Seema Bal and now it being needed to act as a Border Guarding Force under the Ministry of Home Affairs w.e.f. 15.01.2001, the need of such volunteers like the petitioners did not exist further. With regard to the directions passed by the High Court of Himachal Pradesh, it was contended that a contempt petition for non-compliance of the directions passed by it was so instituted by the petitioners therein and the Hon'ble High Court had, by noticing the contention raised before it that the Sashastra Seema Bal had made all out efforts to frame a scheme, but owing to practical difficulties in framing the scheme, it could not be framed, proceeded to hold that it was for the respondents to frame or not to frame a scheme by weighing all the pros and cons. Sincere efforts having been made by the respondents to frame a scheme, it was held that there was no willful disobedience on the part of the respondents and accordingly the contempt petition was dismissed.

7. The said order dated 29.05.2013 further goes to hold that the relief as sought for by the petitioners would not be permissible in view of the fact that the training program undergone by the petitioners was of a voluntary in nature with no contractual service obligation on the part of the Sashastra Seema Bal and they were duly paid the remuneration for the period they had so served. It was also provided in the said order that as a welfare measure, the Ministry of Home Affairs accorded approval for one time relaxation in the upper age limit by three years in respect of Intensive Trained Volunteers for recruitment to the rank of Constable/Follower in addition to existing age relaxation available to SC/ST/OBC category candidates as a special case in addition to other prescribed

qualifying conditions.

8. On the present proceeding being considered, this Court had required Mr. R. K. D. Choudhury, learned Dy. SGI for the respondents to receive his instructions in the matter and the instructions so received were placed by Mr. Choudhury before this Court. In the said instructions, it was brought to light that a writ petition being WP(C) 259/2018 titled Sashastra Seema Bal (SSB) Volunteer Social Welfare Association of Assam and others vs. Union of India and others, had already instituted proceedings before the Supreme Court of India on issues pertaining to Intensive Trained Volunteers and the said matter is still pending disposal.

9. In view of the said developments taking place in the matter and the reasoning as advanced by the SSB authorities in the order dated 29.05.2013 being found by this Court to be reasonable and germane to the issue involved in the present proceeding, this Court is not inclined to interfere with the said order dated 29.05.2013 and accordingly, the present writ petition is held to be devoid of any merit and the same stands dismissed. However, it is provided that the dismissal of the present writ petition would not stand in the way in the event the proceedings before the Hon'ble Supreme Court in Writ Petition No. 259/2018 is finally heard and concluded and certain benefits thereon flow to the petitioners herein also, which benefits in such an eventuality would also be extended to the petitioners herein.

JUDGE

Comparing Assistant