

GAHC010006152014



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

Case No. : WP(C)/854/2014

SMT. RENU CHUTIA
D/O- LT. KHOGESWAR CHUTIA, R/O VILL.- LATHIA, P.S.- DHEMAJI GAON,
P.O.- GOGAMUKH, DIST.- DHEMAJI, ASSAM.

----VERSUS ----

1. THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, DEPTT.
OF EDUCATION, DISPUR, GHY- 6.
- 2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF EDUCATION, DISPUR, GHY- 6.
- 3:THE DIRECTOR OF ELEMENTARY EDUCATION
GOVT. OF ASSAM, KAHILIPARA, GHY- 19.
- 4:THE DIST. ELEMENTARY EDUCATION OFFICER, DHEMAJI, ASSAM.
- 5:THE DY. INSPECTOR OF SCHOOLS, DHEMAJI, ASSAM

Advocate for the Petitioner : MRS.M C DUTTA

Advocate for the Respondent :

— B E F O R E —
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

22.01.2024

Heard Mr. D. Chakraborty, learned counsel for the petitioner. Also heard
Mr. P.K. Borah, learned Standing Counsel, Education (Elementary) Department

appearing for the respondents.

2. In this writ petition, the petitioner has projected that she had been appointed as an Assistant Teacher in Gogamukh Nagar M.V. School on 08.06.1995. Her salaries in pursuance to the said appointment, not having been released, she approached this Hon'ble Court by way of instituting a writ petitioner being Civil Rule No.4931/1995.

3. This Court vide order dated 14.09.1998, disposed of the said petition with a direction that the departmental authorities shall make an enquiry with regard to the claim of the petitioner and if on such enquiry, it is found that the petitioner was working, she would be paid her arrear salary as well as the current salary.

4. The said direction of this Court although was processed but no finality was attained thereto. The petitioner continued to remain without her salaries. After a long period since passing of the order dated 14.09.1998, the petitioner, in the year 2011 instituted WP(C) No.4428/2011 before this Court praying for similar relief as prayed in the earlier writ petition.

5. This Court, on noticing the disputed facts available on the matter, vide order dated 30.03.2012, had required the case of the petitioner to be placed before a Committee constituted in terms of the directions passed by this Court in the case of ***Sudhanshu Mohan Talukdar & Ors. Vs. the State of Assam & Ors.***, reported in ***2006(2) GLT 2016***.

6. It is submitted that the case of the petitioner was placed before the said Committee and the petitioner was also afforded an opportunity of hearing.

On conclusion of the process of examination as mandated, the said Committee had rejected the case of the petitioner. The said rejection of the case

of the petitioner was communicated to all including the petitioner by the Commissioner and Secretary to the Government of Assam, Education (Elementary) Department vide order dated 19.10.2013.

7. On perusal of the order dated 19.10.2013, it is clear that the Committee had concluded that the petitioner was appointed against an non-existent post. The petitioner had not received her salaries since the date of her initial appointment. The name of the petitioner was also not included in the list as published after Manoharan Committee report of short-listing eligible candidates for regularization of their services. Basing on the said grounds, the case of the petitioner was rejected.

8. The petitioner in the present proceeding has not brought on record any material to counter the findings as arrived at by the Committee as reflected in the order dated 19.10.2013. There is no material brought on record to justify the initial appointment of the petitioner of being so effected pursuant to a due process of selection.

9. It is settled law that a person who is not appointed to a vacant post in pursuance to the prescribed procedure is not entitled to any relief. Such appointee cannot be permitted to raise a claim for being authorized salary and other allowances.

10. The initial appointment of the petitioner, not being made in terms of the procedure prescribed under the Rules holding the field, the same is void *ab initio*. Mere continuation of the petitioner shall not entitle her salaries, more so, when it is also the stand taken by the respondents in their affidavit that although the petitioner was appointed in the year 1995, she had abandoned her service and was not working as on the date when the said affidavit was filed

before this Court i.e. 08.09.2014.

11. In the above view of the above position and in absence of any material being brought on record by the petitioner to justify that her initial appointment was in pursuance to a due process of selection, this Court is not in a position to accept the claim of the petitioner for release of her salaries since the date of her initial appointment. It is to be reiterated that the petitioner, since the date of her initial appointment had never received any salary or stipend from the authority.

12. In view of the conclusions reached hereinabove, there is no merit in the present writ petition. Accordingly, the writ petition stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant