

GAHC010046972020



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

Case No. : WP(C)/1464/2020

ARCHANA MAJUMDAR @ ARCHANA MAZUMDAR
W/O- SANJAY ROY, VILL. SINGIMARI, P.O. ALIKASH, P.S. CHHAYGAON,
DIST.- KAMRUP (ASSAM).

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., DISPUR, GHY.-06.

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZANBAZAR
GHY.-01.

3:THE PROGRAMME OFFICER
DIVISIONAL ICDS CELL
KAMRUP(M)
BELTOLA
GHY.- 28.

4:THE DISTRICT SOCIAL WELFARE OFFICER
KAMRUP
AMINGAON
PIN 781031.

5:THE CHILD DEVELOPMENT PROJECT OFFICER
CHHAYGAON ICDS PROJECT
CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781124.

6:SMTI. JOYMATI ROY
W/O- ANANDA ROY
VILL. SINGIMARI
P.O. ALIKASH
P.S. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781137.

7:THE SECRETARY

BOARD OF SECONDARY EDUCATION
ASSAM

Advocate for the Petitioner : MR. A R SIKDAR, MD A ALI,MR J HUSSAIN,MR. L HUSSAIN

Advocate for the Respondent : GA, ASSAM, MR. R MAZUMDAR, SC, EDUCATION DEPTT.,MR. D DOLEY,SC, SEBA (R-7),MR. T CHUTIA, SC, SEBA (R-7),MR I AHMED (R6)

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 04-11-2024

Heard Mr. A. R. Sikdar, learned counsel for the petitioner who submits that by filing this writ petition the petitioner has challenged the appointment/promotion of the Respondent No. 6 to the post of Anganwadi Worker in Singimari Bhagania Anganwadi Centre under the Chhaygaon ICDS Project, Kamrup.

2. According to the petitioner she has rendered her services as Anganwadi Worker for a few months on stopgap basis and that she is eligible to be considered for appointment as Anganwadi Worker on regular basis. The Private

Respondent No. 6 on the other hand was working as Anganwadi Helper under the said Anganwadi centre and after the post of Anganwadi Worker felt vacant, she prayed for being considered to the post of Anganwadi Worker, but, as the same was not done she filed a writ petition before this Court, the same being WP(C) No. 168 of 2015. The writ petition was disposed of vide order dated 21.05.2015 by directing the Director of Social Welfare, Assam to consider the representation filed by her and to consider her for promotion to the post of Anganwadi Worker from the post of Anganwadi Helper within a time frame of 3 months from the date of receipt of the certified copy of the order.

3. It is pursuant to the said direction, that the respondent authorities took up the consideration for promotion of as many as four (4) Anganwadi Helpers under different centres including the centre concerned in the said writ petition for promotion of Anganwadi Helpers to the post of Anganwadi Worker. The name of the Private Respondent No. 6 also was forwarded by the District Elementary Education Officer concerned for consideration and consequently, the Director of Social Welfare Department gave approval to the names forwarded to him which included the name of the Respondent No. 6 vide approval dated 15.02.2020.

4. It is however the case of the petitioner that the Respondent No. 6 does not possess the requisite educational qualification and that the Director of Social Welfare noticing the discrepancy in the educational qualification produced by her had directed the District Elementary Officer, Kamrup (R) to look into the matter and take the final decision on the educational qualification of the Respondent No. 6. According to the petitioner the District Elementary Education Officer thereafter has not taken any final decision and without doing so, the name of Respondent No. 6 was recommended and finally approved for

promotion to the post of Anganwadi Worker.

5. Ms. M. Bhattacharjee, learned Additional Senior Government Advocate appearing for the official respondents has produced the relevant records wherein it is seen that four names were approved by the Director of Social Welfare Department for promotion to the post of Anganwadi Worker from the post of Anganwadi Helper which included the name of the Respondent No. 6 as well. The records however does not reveal as to what decision had been taken by the District Elementary Education Officer, Kamrup (R) pursuant to the communication dated 15.06.2015 made by the Director of Social Welfare Department.

6. Mr. I. Ahmed, learned counsel for Respondent No. 6 submits that the Respondent No. 6 possesses the requisite qualification both in work experience and in education as well. Her case was duly considered by the competent authority, thereafter recommended for promotion and finally approved by the Director of Social Welfare Department for her promotion. Therefore, there is no reason for doubting the fitness of the Respondent No. 6 for being promoted to the post of Anganwadi Worker. He also submits that the petitioner otherwise do not have the *locus standi* to challenge the appointment/promotion of the Respondent No. 6.

7. Mr. D.K. Roy, learned counsel for Respondent No. 7 submits that during the year 1991-1992 there was no provision for registration of students in Class-IX and that registration started only in the year 1996. In that view of the matter, the verification in respect of the registration of Respondent No. 6 in Class-IX in the year 1991-1992 could not be done by the Board of Secondary Education, Assam.

8. Upon hearing the learned counsels for the rival parties, this Court is of the considered view that notwithstanding the approval said to have been given to the Director of Social Welfare to promote the Respondent No. 6 to the post of Anganwadi Worker from the post of Anganwadi Helper, having regard to the communication dated 15.06.2015 made by the Director of Social Welfare Department requiring the District Elementary Education Officer, Kamrup (R) to take a final decision on the educational qualification of the Respondent No. 6, the District Elementary Education Officer concerned shall therefore look into the matter as written in the said communication and take a final decision on the educational qualification of the Respondent No. 6. If the Respondent No. 6 is not found to be qualified upon such consideration, the approval given in favour of Respondent No. 6 shall stand compromised and the post of Anganwadi Worker should be filled up by considering eligible persons and further, in the event the same is done, the petitioner shall also be given a fair chance to participate. On the other hand if the approval given by the Director of Social Welfare Department to the promotion of the Respondent No. 6 is pursuant to the finding already arrived at by the District Elementary Education Officer on the educational qualification of the Respondent No. 6, the approval given for appointment of the Respondent No. 6 as communicated on 15.02.2020 shall be sustained and not disturbed. If such exercise had not been completed as already observed herein above, the District Elementary Education Officer concerned shall do the needful within a period of 2 months from the date of receipt of certified copy of this order. If such exercise is to be undertaken, it is made clear that fair opportunity of personal hearing shall be given to Respondent No. 6 before taking a final decision.

9. With the above observations and directions, the writ petition stands

disposed of.

10. The interim order passed earlier shall stand merged with this order.

JUDGE

Comparing Assistant