

GAHC010104252022



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

Case No. : WP(C)/3620/2022

MOFIDA KHATUN
W/O- ABDUL KALAM, VILL. ROWMARI, P.S. HOWLY, P.O. MAJGAON, P.S.
JAMAR HAT, DIST. BARPETA.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SOCIAL WELFARE DEPTT., DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZANBAZAR
GUWAHATI-1.

3:THE DISTRICT SOCIAL WELFARE OFFICER
BARPETA
DIST. BARPETA

4:THE CHILD DEVELOPMENT PROJECT OFFICER
BHABANIPUR ICDS PROJECT
HOWLY
BARPETA.

5:MISS MOFIDA BEGUM
W/O- ABDUL ALIM
VILL.- ROUMARI NO. 2
P.S. HOWLY
P.O. MAJGAON
P.S. JAMARHAT
DIST. BARPETA

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 07.06.2024

Heard Mr. B.K. Das, learned counsel for the petitioner also heard Ms. A. Talukdar, learned Government Advocate appearing for the respondent nos. 1 to 4. None appears on call for the respondent no. 5.

2. The petitioner had applied for the post of Anganwadi worker under Bhabanipur ICDS Project of Kokrajhar district. She had appeared before the interview. However, the respondent no. 5 was selected for appointment as a Anganwadi worker under Bhabanipur the ICDS project. Accordingly, the present writ petition has been filed under Article 226 of the Constitution of India.

3. It may be stated that the petitioner is presently working as a Anganwadi helper and the selection process was for the up-gradation of Anganwadi helper to the next post of Anganwadi worker.

4. The learned Government Advocate has referred to the affidavit-in-opposition filed by the respondent nos. 2 to 4 and it has submitted that the respondent no. 5 was selected in the up-gradation process to the post of Anganwadi worker of 54 no. Rowmari-4 Anganwadi Center. It is also submitted that the respondent no. 5 has completed ten years of continuous service as a Anganwadi worker belongs to the same revenue village. It is also submitted that

the respondent no. 5 had passed out her HSLC examination in III Division where as the petitioner have passed HSLC examination only through compartmental examination. Accordingly, she has justified the selection of the respondent no. 5 for up-gradation to the post of Anganwadi worker.

5. Pursuant to the order dated 31.07.2023, the learned Government Advocate has produced the records relating to the selection relating to Anganwadi center under the establishment of CDPO Anganwadi ICDS project, Howly. The selection records has been produced and the same has been perused. On a perusal of the said records, it is noticed that in the said record, four sheets of comparative statement are available.

- (i) First sheet of comparative statement relating to 54 no. Rowmari - 4 Anganwadi center contains signature of three persons, being the Child Development Project Officer, Bhabanipur ICDS project, namely Bina Rani Devi, Smti Lakshmi Devi (Sup) and Afruja Begum (MSG). In respect of row no. 2, instead of remarks by the three member committee, the signature of the respondent no. 5 by the ball point pen has been made. It is surprising that access was given to the respondent no. 5 to the comparative statement so as to enable her to put her signature. However, the signatures of the petitioner or the other candidate was not taken.
- (ii) The second comparative statement of the same Anganwadi Center contains the signature of Bina Rani Devi (CDPO). The remarks of the selection committee is entered in a pencil. The

first entry relates to the petitioner. Although the pencil remark of "good" is distinct, the pencil writing of excellent has been erased but the visible impression of the erased remark is "excellent". Against row 2 in respect of the respondent no. 5, the remarks is "Good.Excellent". Therefore the comparative statement with the signature of Bina Rani Devi CDPO is held to be a tampered document.

- (iii) In respect of third comparative statement which bears the signature of Lakshmi Gayan, Supervisor of Majgaon, in respect of the petitioner, the official entry by pencil was "excellent". There was a half-hearted attempt to erase the said remark and therefore, the original remark of "Excellent" is clearly visible after incomplete erasure, and a pencil remark of "good" has been entered. However, in respect of the respondent no. 5 it contains two remarks of "good.excellent". However, all the entries are made in pencil.
- (iv) In the fourth statement which is signed by Afruja Begum (MSG) President, the remarks are made in pencil. However, there is no apparent eraser mark.

6. Although, the Court is not an expert in examining a handwriting but a visual appearance of the remarks made in the comparative sheet no. 2, 3 & 4 appear to be very similar, thereby giving a visual impression as if all the remarks made in pencil were written by one person. The same is also evident from the

fact that the term "ExeelInt" is the spelling used for the word "excellent" and the same mistake has been made in all the three comparative statement nos. 2, 3 & 4. Therefore, the Court is inclined to hold that the selection process of Anganwadi worker of 54 No. Rowmari-4 Anganwadi center is vitiated by apparent tampering of the comparative statement and it is evident that the tempering has been done to favour the candidature of the respondent no. 5

7. Accordingly, the Court has no hesitation to set aside and quash the impugned order under memo no. CDPO (BWP) 119/2018-19/02 dated 28.04.2022, issued by the Child Development Project Officer, Bhabanipur Child Development Project, Howly, by which the appointment up-gradation from Anganwadi helper to Anganwadi worker was issued in favour of the respondent no. 5, namely, Smti. Mofida Begum, wife of Abdul Alim.

8. Resultantly, the Director of Social Welfare Assam (respondent No.2) and the District Social Welfare Officer (respondent No. 3) are directed to issue such requisite or consequential directions as may be required as so as to enable a fresh exercise or evaluation to be conducted of the Anganwadi helpers for their up-gradation to the post of Anganwadi workers in respect of no. 54 Rowmari-4 Anganwadi center. However, having noticed that the hereinbefore named three persons, namely, Bina Rani Devi, CDPO Bhabanipur ICDS project, Lakshmi Gayan (Supervisor) and Afruja Begum (MSG) are involved in the tampering of the records of comparative statement, the respondent nos. 2 & 3 shall ensure that none of these three persons shall handle the fresh selection process. Moreover, the said three persons shall also not be allowed to henceforth handle the ACR/ appraisal of the petitioner in future.

9. The writ petition stands allowed to the extent as indicated above.
10. The original records as produced by the Government Advocate is returned.
11. The petitioner shall produced the certified copy of this order before the respondent no. 3 so as to bring the order to the notice of the respondent no. 2 & 3.
12. The entire exercise shall be carried out within a period of 6 weeks from the date of receipt of the certified copy of the order.
13. Parties are left to bear their own cost.

JUDGE

Comparing Assistant