

GAHC010128352020



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

Case No. : WP(C)/3915/2020

AMINUL ISLAM AND 6 ORS.
S/O- AZAHARUL ISLAM, R/O- WARD NO. IX, P.O. AND DIST.- DHUBRI,
ASSAM.

2: KAMAL HUSSAIN AHMED
S/O- LT. SUKUR ALI MUNSHI
R/O- BARKALIA PART- I
P.O.- FAKIRGANJ
DIST.- DHUBRI
ASSAM.

3: NASIR ALI MONDAL
S/O- JAMIR UDDIN MONDAL
R/O- CHALAKURA PART- III
P.O.- FAKIRGANJ
DIST.- DHUBRI
ASSAM.

4: ROBIAL HOQUE MONDAL
S/O- LT. SURMAN ALI MONDAL
R/O- CHALAKURA PART- III
P.O.- HAMIDABAD
DIST.- DHUBRI
ASSAM.

5: AFTAB UDDIN AHMED
S/O- LT. FAZAR UDDIN AHMED
R/O- POUND ROAD
WARD NO. 4
PO. AND DIST.- DHUBRI
ASSAM.

6: SAHABUL AHMED
S/O- LT. NASIR UDDIN AHMED

R/O- COLLEGE ROAD
WEST DHUBRI (BIDYAPARA PART- III)
P.O.- KHALILPUR
DIST.- DHUBRI
ASSAM.

7: MOTIOR ROHMAN PARAMANIK
S/O- LT. KABIL UDDIN PARAMANIK
P.O.- POCHAR CHAR
DIST.- DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
POLITICAL (B) DEPTT., DISPUR, GHY- 6.

2:THE COMMISSIONER AND SECY.
JUDICIAL DEPTT.
DISPUR
GHY- 6.

3:THE DY. COMMISSIONER
DHUBRI
PIN- 783101.

4:RITUPARNA GUHA
ASSTT. GOVT. PLEADER
C/O- FOREIGNERS TRIBUNAL (1ST)
DHUBRI
PIN- 783101.

5:GOKUL CHANDRA KARMAKAR
ASSTT. GOVT. PLEADER
C/O- FOREIGNERS TRIBUNAL (2ND)
DHUBRI
PIN- 783101.

6:ADHIR CHANDRA ROY
ASSTT. PLEADER
C/O- FOREIGNERS TRIBUNAL (4TH)
DHUBRI
PIN- 783101.

7:ANINDA PAUL
ASSTT. PLEADER
C/O- FOREIGNERS TRIBUNAL (5TH)

DHUBRI
PIN- 783101.

8:SHANKAR PRASAD CHAKRABARTY
ASSTT. PLEADER
C/O- FOREIGNERS TRIBUNAL (8TH)
DHUBRI
PIN- 783101.

9:ANANDA KUMAR RAI
ASSTT. PLEADER
C/O- FOREIGNERS TRIBUNAL (9TH)
DHUBRI
PIN- 783101.

10:SANGITA KEORI
ASSTT. PLEADER
C/O- FOREIGNERS TRIBUNAL (10TH)
DHUBRI
PIN- 783101

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

23.07.2024.

Heard Ms. FN Zaman, learned counsel appearing on instructions of Ms. R Choudhury, learned counsel for the petitioners. Also heard Shri D Mozumdar, learned Addl. Advocate General, Assam assisted by Ms. S Nath, learned counsel for the State respondents. Ms. N Kotokey, learned counsel appearing on instructions of Shri SC Keyal, learned counsel is present for the respondent no. 4.

2. The issue involved in this case pertains to a challenge to an order dated 08.09.2020 by which the services of the petitioners as Assistant Government Pleader in various Foreigners Tribunals at Dhubri were terminated.

3. Ms. Zaman, learned counsel for the petitioners has submitted that the petitioners were duly appointed vide an order dated 02.03.2016 issued by the Home and Political Department for various districts of the State. In the said notification, under Sl. No. 11, the appointments made in the district of Dhubri have been stated in which the names of the petitioners figured. It is submitted that pursuant to such appointment, the petitioners were discharging their services diligently and without any blemish. However, vide the impugned order dated 08.09.2020, the petitioners have been terminated from their service. It is submitted that no notice, whatsoever was issued to the petitioners prior to such termination order and no reasons have been assigned for such termination. Ms. Zaman, learned counsel, accordingly submits that appropriate orders be passed for setting aside the termination orders and directing to continue the services of the petitioners.

4. *Per contra*, Shri Mozumdar, learned Addl. AG has submitted that the appointment was purely on the Doctrine of Pleasure. By referring the communication dated 26.11.2015, the learned Addl. AG has submitted that recommendations were sought for from the Deputy Commissioner of names to be appointed as Assistant Government Pleader and based on such recommendations, the appointments were made. Shri Mozumdar, learned Addl. AG has also submitted that though the appointment order did not specify the duration of such appointment, there is a specific mention that the appointments should be governed by the concerned notifications. In this regard, reference has been made to the notification dated 27.06.2013 holding the field as per which, appointment/engagement of the Government Advocates would be for one year which would be renewable. He submits that the petitioners had already served for 4 to 5 years and only to give other Advocates a fair opportunity, the said steps have been taken. He has also clarified that though the expression 'termination' used, the same is actually discontinuation without any stigma.

5. Ms. Zaman, learned counsel for the petitioners has also fairly submitted that the petitioners were also having the knowledge that the initial appointment was for a period of 2 years and the said period was over long back. The impugned order dated 08.09.2020 has, no doubt, used the expression 'termination'. However, such termination cannot be said to be stigmatic in nature as it appears that it is a termination simpliciter which, in other words, is a discontinuation of service. The impugned order also contained certain appointments of new persons to act as Assistant Government Pleaders in the said posts. The initial appointments of the petitioners being only by recommendation and not through a rigorous recruitment process, the petitioners would not have an indefeasible right to continue with such appointment, that too, as Assistant Government Pleader. After all, the Government, who appoints its counsel, would have to be given liberty to have its counsel of its choice and nobody can force the Government to make him or her a Government Advocate.

6. In view of the aforesaid facts and circumstances, this Court is of the opinion that no case for interference is made out and accordingly, the writ petition is dismissed.

JUDGE

Comparing Assistant