

GAHC010170452019



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

Case No. : Review.Pet./111/2019

SMTI. MITALI GOHAIN
D/O- SRI NANDESWAR GOHAIN, W/O- SRI BINUD BORGOHAIN,
DEOGHARIA GAON, PUB MACHKHUWA, DIST.- DHEMAJI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE DIRECTOR
SOCIAL WELFARE DEPARTMENT OF ASSAM

GUWAHATI-01.

3:THE CHILD DEVELOPMENT PROJECT OFFICER

MACHKHOWA ICDS PROJECT
DHEMAJI
ASSAM.

4:THE TREASURY OFFICER
DHEMAJI
DIST.- DHEMAJI
ASSAM.

5:SMTI. MALA RANI DUTTA
W/O- SRI DIPIN BORGOHAIN
VILL.- DEOGHARIA
P.O. BEGENAGAORAH
P.S. MACHKHOWA
DHEMAJI

ASSAM

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : GA, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

02.02.2024

1. Heard Mr. R De, learned counsel for the petitioner. Also heard Mr. R Dhar, learned counsel representing the State respondents and Mr. MJ Baruah, learned counsel for the respondent No. 5/ writ petitioner.
2. The present review petition is filed seeking review of the order dated 01.02.2019 passed in WP(C) 3248/2016. By the aforesaid order, this court allowed the writ petition being WP(C) 3248/2016 preferred by the present respondent No. 5.
3. The challenge made in the writ petition was to the appointment made in favour of the review petitioner/ respondent No. 4 in the writ petition as Anganwadi Worker of Madhya Deoghoria Anganwadi Centre.
4. This court after perusal of the record and after hearing the parties including the review petitioner came to a conclusion that the writ petitioner obtained 30 marks and the respondent No. 4 obtained 28 marks. It was further concluded that though there was an over writing in respect of marks granted in favour of the respondent No. 4/ review petitioner against communication ability, even if the over writing is considered to be correct, still the respondent No. 4/ review petitioner would get less marks than the petitioner.
5. Accordingly, this court concluded that the writ petitioner/ respondent No. 5

herein is more meritorious than the review petitioner i.e. the respondent No. 4 in the writ petition. This court also recorded in its finding that Mr. R De, learned counsel for the respondent No. 4 submitted that he has nothing to submit as the record made available before this court during the writ proceeding by the learned State counsel will speak for themselves. Accordingly, this court directed to pass necessary order for terminating the service of the respondent No. 4 and directed to issue appointment to the writ petitioner against the post of Anganwadi Worker at Madhya Deoghoria Anganwadi Centre, Machkhowa ICDS Project, Dhemaji immediately. Accordingly, the order dated 09.11.2015 and 13.11.2015 impugned in the writ petition were set aside.

6. The review petition is filed primarily on the ground that there are four members in the selection committee and the marks were calculated on the basis of total 30 marks each. However, the Government Advocate inadvertently failed to point out that aspect of the matter for which this court had come to a wrong conclusion. The impugned order reflects that original mark sheet prepared by the selection committee were produced and it is not a finding of the learned Judge that only record of one selector was considered. Therefore, it cannot be said that there is any error apparent on the face of the record. Therefore, such ground stands rejected.
7. The further ground is that comparative statement was prepared on the basis of marks awarded by the four selectors and comparative statement would have revealed the correct position of the marks obtained by the total candidates. The petitioner sought for information under the Right to Information Act, 2005 seeking copies of the comparative statements subsequent to the order of this court. However, it was replied that no records are available in respect of comparative statement relating to the selection. Thus the review petitioner has failed to show any material even to have a prima-facie satisfaction that interview was a comparative statement and the same has not been perused by

this court while passing the order in question. Rather, the fact remains that the learned counsel for the petitioner did not raise any objection regarding the record produced by the respondent State. The fact also remains that the basis of the conclusion arrived at by the court while passing the order in question are the records. No material has been brought on record to show that it relied on the part of the material and such conclusion. That being the position and in absence of any material to suggest any such error apparent, this court is not inclined to review the order 01.02.2019 passed in WP(C) 3248/2016.

8. In view of the aforesaid, this court finds no merit in the present review petition and same stands dismissed.

JUDGE

Comparing Assistant