

GAHC010192522013



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

Case No. : WP(C)/2476/2013

SWAPNA BEGUM LASKAR
W/O ABDUL SIDIQUE LASKAR, R/O RATANPUR,
PART-II, P.O. RATANPUR, DIST- HAILAKANDI, ASSAM

VERSUS

1: THE STATE OF ASSAM AND 6 ORS REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SOCIAL WELFARE, DISPUR, GHY-6

2: THE DIRECTOR OF SOCIAL WELFARE
ASSAM UZANBAZAR GHY-1

3: THE DISTRICT SOCIAL WELFARE OFFICER
HAILAKANDI

4: THE DY. COMMISSIONER
HAILAKANDI

5: THE CHILD DEVELOPMENT PROJECT OFFICER
HAILAKANDI ICDS PROJECT HAILAKANDI

6: SMT. FARIDA ALAM MAZUMDAR
CIRCLE SUPERVISOR HAILAKANDI ICDS PROJECT HAILAKANDI

7: DILDAR AHMED LASKAR
S/O ANAMUL ISLAM LASKAR R/O THUPKHANA
P.O. KANCHANPUR DIST- HAILAKANDI ASSAM

Advocate for the Petitioner : MR.N J KHATANAR

Advocate for the Respondent : MR.N HAQUE

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 23-01-2024

Heard Mr. R. Chauhan, learned counsel for the petitioner. Also heard Mr. D. Borah, learned Junior Government Advocate, Assam, representing the respondent Nos.1 to 5 and Mr. K. Uddin, learned counsel representing the respondent Nos.6 & 7.

The petitioner, by way of instituting the present proceeding, has presented a challenged of an Office Order dated 13.03.2013 issued by the Child Development Project Officer, Hailakandi ICDS Project, by which she was discharged from her services as Anganwadi Worker of Anganwadi Centre No.204.

As projected in the writ petition, the petitioner was initially engaged as an Anganwadi Worker of Anganwadi Centre No.204, vide a communication dated 23.12.2009, and since then she was continuing in her services in the said capacity.

It is the case of the petitioner that on 07.03.2013, at around 9:00 AM, the respondent No.6, who is the Circle Supervisor of Hailakandi ICDS Project, came to the Anganwadi Centre of the petitioner and required the petitioner to provide to her various registers maintained in the Centre, including the attendance register. It is to be noted that the respondent No.6 was stated to have been accompanied by the respondent No.7, who is projected to be an Investigating Officer under the Juvenile Justice Board and who is not connected with the affairs of the Anganwadi Centre or the ICDS Project. The respondent Nos.6 & 7, as per the contention of the petitioner, had threatened to get her discharged from her services along with the Anganwadi Helper working in the

said Centre and the respondent No.6 asked the petitioner to sign the Attendance Register for the entire month of March as they would take the register away. It is contended by the petitioner that the respondent Nos.6 & 7 had demanded a sum of Rs.5,000/- from the petitioner and in the event of non-payment of the said amount, it was threatened that adverse action would be taken against her.

The husband of the petitioner, on coming to learn about the said incident, had conformed to the respondent Nos.6 & 7, which led to institution of an FIR by the respondent No.6 on 07.03.2013 before the Hailakandi Police Station. The said FIR was registered as Hailakandi Police Station Case No.79/2013. The husband of the petitioner had thereafter, taken bail in connection with the said Police Station Case. The petitioner along with the Anganwadi Helper, on 08.03.2013, had lodged a complaint before the Child Development Project Officer, Hailakandi ICDS Project against the respondent Nos.6 & 7. The complaint as lodged before the Child Development Project Officer on 08.03.2013 as well as the complaint lodged before the Deputy Commissioner, Hailakandi on 20.08.2013 by the petitioner having not resulted in any action, the petitioner on 23.03.2013 lodged an FIR before the Hailakandi Police Station against the respondent No.7, which was registered as Hailakandi Police Station Case No.95/2013. In the said background, it is stated that the petitioner had received the impugned Office Order dated 13.03.2013, by which she was being discharged from her services with a further direction to hand over the record of the Centre to the respondent No.6.

The petitioner, by relying on the said Office Order dated 13.03.2013, has contended that the same was so passed basing on the report submitted by the Circle Supervisor of Hailakandi ICDS Project, i.e. respondent No.6, on

11.03.2013. It is the specific stand of the petitioner that prior to issuing the Office Order dated 13.03.2013, she was not served with any notice. The petitioner's further contention is that the report of the Circle Supervisor dated 11.03.2013, as mentioned in the Office Order dated 13.03.2013, was also never furnished to her. The petitioner, on the said premises, had instituted the present proceeding assailing the Office Order dated 13.03.2013 with a further direction for her continuation in service.

This Court, while issuing notice in the present proceeding, vide order dated 13.05.2013, was pleased to stay the effect and operation of the impugned order dated 13.03.2013 with further direction that the petitioner shall continue as an Anganwadi Worker in Anganwadi Centre No.204.

The respondent No.5, i.e. the Child Development Project Officer, Hailakandi, had filed an affidavit-in-opposition in the matter and therein had contended that in view of the fact that the petitioner was found to have committed misconduct in signing the attendance register in advance till 23.03.2013 as well as the action on the part of the petitioner and her husband in dealing with the respondent Nos.6 & 7, led to issuance of a show cause notice to her on 11.03.2013. It is further contended that the said show cause notice dated 11.03.2013 was refused to be accepted by petitioner. Accordingly, it is contended that in view of the misconduct committed by the petitioner, her services came to be discharged vide the impugned Office Order dated 13.03.2013.

Upon consideration of the materials available on record, it is revealed that the impugned Office Order dated 13.03.2013 was admittedly passed on the basis of a report submitted in the matter by the Circle Supervisor, i.e. the respondent No.6. The contention of the petitioner that such report, basing on

which the Office Order dated 13.03.2013, was passed towards discharging her from her services as an Anganwadi Worker of the said Centre was never furnished to her. The contention made in this connection in the writ petition has not been dealt with in the affidavit-in-opposition filed by the Child Development Project Officer, Hailakandi in the matter. The fact as to whether the Circle Supervisor's report dated 11.03.2013 was served on the petitioner or not was side stepped by the respondent No.5 in her affidavit-in-opposition and it was stated that the discharge of the petitioner from her services was not solely based on the report submitted by the respondent No.6. Further, in the said affidavit-in-opposition while contending that a show cause notice was issued to the petitioner on 11.03.2013, copy of the said show cause notice and/or a report pertaining to refusal of the petitioner to accept such noticed has not been brought on record.

The petitioner was permitted to continue in her services in terms of the *interim* direction passed by this Court vide order dated 13.05.2013 and noting is brought on record to show that such continuation of the petitioner in her services has caused any adverse affect on the works related to the said Anganwadi Centre No.204. The respondent Nos.6 & 7 inspite of the fact that specific allegations are levelled against them in the writ petition have not filed any counter affidavit in the matter. The affidavit filed by the Child Development Project Officer having not dealt with the pleas raised by the petitioner in her writ petition, the same does not conclusively throw any light as to the commission of misconduct by the petitioner.

In the said view of the matter and considering the continuance of the *interim* direction passed by this Court vide order dated 13.05.2013 in the present proceeding, this writ petition is disposed of by interfering with the

Office Order dated 13.03.2013 by reiterating the direction as contained in the order dated 13.05.2013 passed by this Court in the present proceeding to allow the petitioner to continue as an Anganwadi Worker of the Anganwadi Centre No.204.

Notwithstanding the above directions, as passed by this Court, it would be open for the respondent authorities, more particularly the respondent Nos.2 & 5, to proceed against the petitioner in the event there are materials which disclose commission by her of any misconduct in course of discharge of her duties as Anganwadi Worker in Anganwadi Centre No.204. In the event the respondent Nos.2 & 5 are satisfied with the materials available on record, which unequivocally disclose commission of any misconduct by the petitioner, they are at liberty to proceed against the petitioner in a manner known to law. In the event any proceeding is initiated against the petitioner, she would be given due opportunity to defend her case and she shall be furnished with the materials basing on which the respondent Nos.2 & 5 may come to a conclusion that the petitioner had committed a misconduct during the discharge of her duties as Anganwadi Worker in the said Anganwadi Centre.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant