

GAHC010225862021



2024:GAU-AS:11739

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

Case No. : WP(C)/138/2022

SHAMINA YASMIN
D/O- SOKAT ALI,
W/O- BAHARUL ISLAM
R/O- DAKHIN CHENIMARI
P.O- KATHANI, P.S- LAHORIGHAT,
DIST- MORIGAON, ASSAM,
PIN-782127

VERSUS

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

2:THE DIRECTOR
OF SOCIAL WELFARE
ASSAM

UZAN BAZAR
GUWAHATI-01

3:THE DISTRICT SOCIAL WELFARE OFFICER
MORIGAON DISTRICT

4:THE CHIEF DEVELOPMENT PROJECT OFFICER (CDPO)
LAHORIGHAT ICDS PROJECT
LAHORIGHAT

5:THE DEPUTY COMMISSIONER
MORIGAO

Advocate for the Petitioner : MS. S B CHOUDHURY, MR A N AHMED

Advocate for the Respondent : SC, SOCIAL WELFARE, GA, ASSAM

Linked Case : WP(C)/7315/2021

NADIRA KHATUN
W/O. ABDUL HANNAN
VILL. DAKHIN CHENIMARI
P.O. KATHANI
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM.

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P.S. AND DIST. MORIGAON
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4:THE DISTRICT SOCIAL WELFARE OFFICER

MORIGAON DISTRICT
AT MORIGAON
P.O.
P.S. AND DIST. MORIGAON
ASSAM.

5:THE CHILD DEVELOPMENT PROJECT OFFICER

LAHARIGHAT INTEGRATED CHILD DEVELOPMENT SCHEME
PROJECT
MORIGAON ASSAM.

Advocate for : MR H R A CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS.

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

Judgment & Order (Oral)

Date : 27.11.2024

Heard Ms. S. B. Choudhury, learned counsel for the petitioner in WP(C)/138/2022 and Mr. A. T. Sarkar, learned counsel for the petitioner in WP(C)/7315/2021. Also heard Ms. M. D. Borah, learned counsel appearing for the State respondents in both the writ petitions.

2. The issue involved in the above noted writ petitions pertains to the process of recruitment initiated for promotion to the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre (hereinafter referred to as the Anganwadi Centre). While in WP(C)/7315/2021, the challenge is to a communication dated 20.12.2021, issued by the Child Development Project Officer (CDPO), Lahorighat ICDS Project, whereby the earlier process of recruitment for the post of Anganwadi Worker in the said Anganwadi Centre was cancelled and a fresh process was undertaken. In WP(C)/138/2022, the petitioner has prayed for a direction upon the respondent authorities to hold a fresh interview in connection with the recruitment by promotion to the post of Anganwadi Worker available in the Anganwadi Centre.

3. The petitioner in WP(C)/7315/2021 was initially appointed as an Anganwadi

Helper in Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre on 28.09.2007 and the petitioner thereafter, continued to discharge her services in the said Centre. In the year 2019, on a joint request made by one *Shamina Yasmin* (the petitioner in WP(C)/138/2022), who was working as an Anganwadi Helper in 350 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC and the petitioner in WP(C)/7315/2021), for a mutual transfer, they came to be mutually transferred. It is contended that in terms of the said mutual transfer, the petitioner, joined at 350 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC while the petitioner in WP(C)/138/2022 joined at 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC.

4. Thereafter, the incumbent in the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC expired and a resultant vacancy having occasioned, an advertisement was issued by the CDPO, Lahorighat ICDS Project, on 24.01.2020, inviting applications from eligible candidates for filling up of the available vacant posts of Anganwadi Worker under various Anganwadi Centers, including 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC. It is contended that the petitioners in both the writ petitions had participated in the selection process and the respondent authorities, on conclusion of the selection process, had selected the petitioner in WP(C)/7315/2021 and her name was forwarded to the Director of Social Welfare Department, Assam, for approval.

5. It is seen from the materials brought on record that the Director of Social Welfare Department, Assam, had approved the name of the petitioner in WP(C)/7315/2021, vide communication dated 14.05.2020 for promotion as Anganwadi Worker at 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC. However, the petitioner in WP(C)/7315/2021 was not appointed inspite of her such selection and approval thereto granted by the Director Social Welfare Department, Assam, vide the communication dated 14.05.2020.

6. It is seen that the CDPO, Lahorighat ICDS Project, vide a communication

dated 20.12.2021, had informed the petitioner in WP(C)/7315/2021 that the interview as held on 13.02.2020 for recruitment by way of promotion to the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre had lost its validity and accordingly, a fresh interview for the purpose was decided to be conducted. Accordingly, the petitioner in WP(C)/7315/2021 was directed to collect the documents from the Office of the CDPO, Lahorighat ICDS Project and submit the same in the office within a period of one week. Being aggrieved, WP(C)/7315/2021 came to be instituted by the petitioner *Nadira Khatun*, assailing the communication dated 20.12.2021 and the decision contained therein for holding a fresh interview for promotion to the post of Anganwadi Worker at 312 No. Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre.

7. The petitioner in WP(C)/138/2022, *Shamina Yasmin* has in the writ petition, not challenged the selection of the petitioner in WP(C)/7315/2021 in pursuance to the advertisement dated 24.01.2020 but, has prayed for a direction upon the respondent authorities for a fresh selection process for promotion against the post of Anganwadi Worker as available in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC.

8. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

9. The CDPO, Lahorighat ICDS Project had vide an advertisement dated 24.01.2020, initiated a process for recruitment by promotion to the post of Anganwadi Worker at 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC, as well as against other vacant post of Anganwadi Worker lying vacant under the said ICDS Project. The petitioners in the above noted writ petitions had submitted their respective applications for being considered for promotion against the post of Anganwadi Worker, lying vacant in 312 No. Dakhin Chenimari Dakhin

Pub-Chuburi AWC. The Selection Committee as constituted in the matter, on consideration of the cases of the persons before it, proceeded to select the petitioner in WP(C)/7315/2021 for appointment against the said post of Anganwadi Worker. Thereafter, the recommendations so made by the Selection Committee for the various posts of Anganwadi Worker available under the jurisdiction of the said ICDS project were forwarded to the Director of Social Welfare, Assam for his approval.

10. The Director of Social Welfare, Assam, vide his communication dated 14.05.2020, accorded approval to the recommendations so made by the Selection Committee for promotion to the post of Anganwadi Worker under the said ICDS Project. The selection of the petitioner in WP(C)/7315/2021 for her promotion as Anganwadi Worker in the said Anganwadi Centre also came to be approved by the Director of Social Welfare, Assam. However, the promotion of the petitioner in WP(C)/7315/2021 did not occasion. The CDPO, Lahorighat ICDS Project, vide communication dated 20.12.2021, informed the petitioner in WP(C)/7315/2021 that the interview as held on 13.02.2020 for promotion against the post of Anganwadi Centre in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC had lost its validity, as no promotion came to be effected against the said post and accordingly, it was informed that it has been decided to hold a fresh interview in the matter. The petitioner vide the said communication was required to collect the documents and to submit it to the office of the CDPO, Lahorighat ICDS Project.

11. It is to be noted herein that the petitioner in WP(C)/138/2022 has not challenged the selection of the petitioner in WP(C)/7315/2021 and/or, the approval granted to such selection by the Director of Social Welfare, Assam, however, she had prayed for a direction upon the respondents to hold a fresh selection process for recruitment by promotion to the post of Anganwadi Worker available in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC. In pursuance to

the advertisement dated 24.01.2024, the select list as prepared having not been implemented, on the ground that the same had lost its validity, it is required to be examined as to whether any promotion therefrom can be directed to be effected.

12. The manner and method for effecting promotions to the post of Anganwadi Worker is laid down in the guidelines notified vide notification dated 04.03.2013. On perusal of the guidelines for promotion to the post of Anganwadi Worker as notified vide the notification dated 04.03.2013, it is seen that the Selection Committee constituted in the matter is required to recommend the names of Anganwadi Helpers, after interviewing them for the purpose of promotion to the post of Anganwadi Worker and to submit the select list to the Director, Social Welfare Department, Assam for approval. It is further provided in the guidelines that the select list so prepared, shall remain valid for making engagements therefrom, for a period of 1(one) year. Admittedly, in the present case, the select list for the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC was so prepared on 13.02.2020, selecting the petitioner in WP(C)/7315/2021 for appointment and the same was approved by the Director of Social Welfare, Assam on 14.05.2020. Even if the period for which the select list in question, is to be remain valid for making promotions therefrom is reckoned from the date of approval granted to the same by the Director of Social Welfare, Assam i.e. w.e.f. 14.05.2020, applying the provisions of the guidelines notified vide the notification dated 04.03.2013, the said select list has to be held to have lost its validity on completion of one year of such approval i.e. w.e.f. 14.05.2021. WP(C)/7315/2021 was instituted before this Court only on 27.12.2021 i.e. after the validity of the select list approved by the Director of Social Welfare, Assam had expired.

13. In that view of the matter, the select list so prepared by the Selection Committee and subsequently, approved by the Director of Social Welfare, Assam

on 14.05.2020 having lost its validity before the petitioner in WP(C)/7315/2021 had approached this Court, it is to be held that no direction for the promotion of the petitioner in WP(C)/7315/2021 from the said select list would be permissible to be issued and accordingly, the claim as made by the petitioner in WP(C)/7315/2021, seeking her promotion in terms of her selection and placement in the select list dated 13.02.2020, approved by the Director of Social Welfare, Assam on 14.05.2020, cannot be acceded to. Accordingly, this Court is of the considered view that fresh process of selection as initiated by the CDPO, Lahorighat ICDS Project vide communication dated 20.12.2021 would not call for any interference. However, it is provided that all the Anganwadi Helpers, eligible for consideration of their cases for promotion against the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre, be so considered in the fresh process of recruitment.

14. The select list as prepared for recruitment to the post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi AWC, on 13.02.2020 and approved by the Director of Social Welfare, Assam on 14.05.2020, having held by this Court herein above to have lost its validity and no recruitment there from being permissible and a fresh process of recruitment being held to be mandated in the matter, the grievance raised by the petitioner in WP(C)/138/2022 stands redressed and no further orders are called for to be issued in the matter.

15. In view of the above conclusions, it is directed that the respondent authorities would now proceed to hold a fresh process of selection for recruitment by promotion against the vacant post of Anganwadi Worker in 312 No. Dakhin Chenimari Dakhin Pub-Chuburi Anganwadi Centre by considering the cases of the eligible Anganwadi Helpers, strictly, in accordance with the guidelines holding the field and thereafter, proceed to promote the selected Anganwadi Helper against the said post.

16. With the above observations and directions, both the writ petitions stands disposed of.

JUDGE

Comparing Assistant