

GAHC010234262018



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

Case No. : WP(C)/7364/2018

BILLALUDDIN
S/O- LT ABDUL HAKIM, VILL- BARAMA BIL, P.O. MOWAMARI, P.S.
SAMGURI DIST NAGAON, ASSAM, PIN- 782002

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, FINANCE
DEPTT., DISPUR, ASSAM, PIN- 781005

2:THE DIRECTOR OF AGRICULTURE
KHANAPARA
GHY-32

3:SUGARCANE DEVELOPMENT OFFICER
SHILLONGONI NAGAON
ASSAM
PIN- 78200

Advocate for the Petitioner : MR. A DASGUPTA, MR N SARMA,MR M MONDAL,MS. B DAS,MR. B DAS,MR. R SARKAR

Advocate for the Respondent : MR. A PHUKAN (SC, FINANCE DEPTT.), GA, ASSAM,MR. B CHOUDHURY (SC, AGRI. DEPARTMENT)

BEFORE
HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

For the Petitioner : Shri N Sarma, Advocate and

For the Respondents : Ms. G Bora, SC, Agriculture Deptt.,
Assam.

Date of Hearing : 06.08.2024.

Date of Judgment : 06.08.2024.

JUDGMENT & ORDER

Heard Shri N Sarma, learned counsel for the petitioner. Also heard Ms. G Bora, learned Standing Counsel, Agriculture Department, Assam.

2. The matter pertains to a claim for wages for the period from 2005 to 2019 for the services claimed to have rendered by the petitioner as a Daily Wager.

3. It is the projected case of the petitioner that he was a Muster Roll worker in the Sugarcane Development Nursery, Shillongoni in the district of Nagaon. He claims to have been engaged as Night Watchman since April, 1982 at a daily wage of Rs. 60/-. The petitioner relies upon certain certificates issued by the Sugarcane Development Officer regarding his engagement. The petitioner had also raised the issue of regularization of his service by claiming that he was engaged prior to 01.04.1993.

4. Shri Sarma, learned counsel for the petitioner has drawn the attention of this Court to the certain communications on the issue of regularization. He has also

contended that in the year 2019, the petitioner has superannuated and his wages for the period from 2005 to 2019 have not yet been released. He has, however, submitted that so far as the issue of regularization of service is concerned, after the judgment rendered by the Hon'ble Division Bench in the case of ***State of Assam Vs. Upen Das***, reported (2017) 4 GLR 493, he will stick his claim to the aspect of arrears of pay only. The learned counsel has drawn the attention of this Court to the affidavit-reply filed on 28.03.2024 along with which certain documents have been enclosed. He submits that the said documents would demonstrate the fact of his engagement and therefore, a direction may be issued for release of his wages.

5. *Per contra*, Ms. Bora, learned Standing Counsel has submitted that the present claim has to be based on certain documents and the petitioner has not been able to place any reliable documents regarding his engagement, continuity in service and the aspect of retirement. She submits that except from certain certificates issued by the Sugarcane Development Officer, there is not a single document which would support the claim of the petitioner. The learned Standing Counsel has specifically drawn the attention of this Court to the report of an inquiry conducted on the aspect of the claim of the petitioner. The said inquiry which culminated in the report dated 27.07.2023 has been enclosed as Annexure-2 to the affidavit-in-opposition. By referring to the same, the learned Standing Counsel has submitted that the documents upon which the claim has been based are mainly issued by one Lalit Chandra Das, who was the Sugarcane Development Officer. The said Lalit Chandra Das was called in the inquiry as his views and authority for issuing such certificates were of grave importance. However, the said officer did not attend the inquiry. The inquiry report has reached a finding that there was no record of continuous service from 1982 to March 1993. Though the Inquiry Officer has also taken into account his certificates issued by the Sugarcane Development Officer, he has come to a finding that such certificates are not based on any government records. The learned Standing Counsel has also submitted that there

is neither any appointment letter which has been produced nor any letter of superannuation. Under those circumstances, the claim appears to be without any basis and therefore, the writ petition is liable to be dismissed.

6. In his rejoinder, Shri Sarma, learned counsel for the petitioner has relied upon that part of the inquiry report wherein, it has been stated that certain records were misplaced or missing. It is submitted that the since the services of the petitioner has been utilized, wages cannot be denied.

7. The rival submissions have been duly considered and the materials placed on records have also been carefully examined.

8. The claim for wages is from March, 2005 to 2019. The writ petition was instituted in the year 2018. A person who claims to have been rendering his services continuously cannot be expected to survive for long 14 years. In any case, apart from there being no records whatsoever except certain certificates towards engagement of the petitioner, it is not at all believable or convincing that a person can survive for long 14 years without payment of wages and yet did not knock the doors of the Court at a much earlier period. As rightly pointed out, neither there is any letter of engagement nor any letter of superannuation from service. This Court is also of the opinion that when there is a fact finding against the petitioner and the same, till now is not under challenge, a writ court cannot grant any relief. Ultimately, the dispute is a factual one and the affidavit filed by the Department has, in clear terms stated that since there were no records of engagement of the petitioner, the claim cannot be justified.

9. In view of the above circumstances, this Court is of the considered view that no relief can be granted to the petitioner. The writ petition is accordingly dismissed.

10. The petitioner is, however, at liberty to challenge the aforesaid Inquiry Report dated 27.07.2023, if so advised.

JUDGE

Comparing Assistant