

GAHC010258772023



2024:GAU-AS:11337

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

**Case No. : WP(C)/6716/2023**

ASHIMANANDA BHUYAN  
S/O- LATE BADAN CHANDRA BHUYAN, R/O- SILSAKO, NORTH  
GUWAHATI, P.O. MADHYAMKHANDA, P.S. NORTH GUWAHATI, DIST.  
KAMRUP, ASSAM, PIN- 781030.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, CULTURAL AFFAIRS DEPARTMENT, DISPUR,  
GUWAHATI-06.

2:THE DIRECTOR OF MUSEUM  
ASSAM  
GNB ROAD  
AMBARI  
GUWAHATI-01.

3:THE CURATOR

ASSAM STATE MUSEUMS AND EXAMINATION COORDINATOR  
GNB ROAD  
AMBARI  
GUWAHATI-01.

4:THE DISTRICT MUSEUMS OFFICER

DIBRUGARH  
DIST. DIBRUGARH  
ASSAM  
PIN- 786003

**Advocate for the Petitioner** : MR M A ISLAM, MR J I MONDAL

**Advocate for the Respondent** : GA, ASSAM,

**BEFORE  
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

**ORDER**

**Date : 19.11.2024**

Heard Mr. M. A. Islam, learned counsel for the petitioner. Also heard Mr. D. Bora, learned Junior Government Advocate for the State respondents.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner is assailing the impugned order dated 18.09.2023 issued by the respondent no. 2 terminating the service of the petitioner.

3. The case of the petitioner is that pursuant to an Advertisement dated 10.11.2020 issued by the Director of Museums, Assam for filling up vacant post of Grade-IV, the petitioner applied for the said post and appeared in the written test held on 14.02.2021.

4. It is the further case of the petitioner that thereafter the petitioner was selected by the selection committee and appointed as a Peon (Grade-IV) in the District Museum, Dibrugarh vide appointment order dated 28.06.2021.

5. It is the further case of the petitioner that after 2 (two) years of service in the aforesaid post, the petitioner was transferred to the Directorate of Museums at Guwahati vide transfer order dated

16.05.2023.

6. It is the further case of the petitioner that thereafter the petitioner was not allowed to work and was terminated from his service by order dated 18.09.2023 without issuing any show-cause notice or opportunity of hearing. Situated thus, the petitioner made representations by order dated 19.09.2023 and 30.09.2023 for review of the impugned termination order, however, since no action was forthcoming, the present writ petition has been filed.

7. Mr. M. A. Islam, learned counsel for the petitioner submits that the impugned termination order has passed without giving any show-cause notice or hearing whatsoever to the petitioner and therefore, the same is illegal null and void.

8. Mr. D. Bora, learned Junior Government Advocate for the State respondents submits that the appointment of the petitioner was irregular for which the said appointment was terminated by the impugned order. He however, fairly submits that no show-cause notice as apparent from the record was issued to the petitioner before the issuance of impugned termination order.

9. Heard the learned counsel for both the contesting parties and perused the material available on record.

10. It appears that the petitioner was appointed to the post of Peon (Grade-IV) in a District Museum, Dibrugarh under the Directorate of Museums, Assam, Guwahati by order dated 28.06.2021 in view of the fact that the selected candidate who was above the petitioner in the

select list did not join the said post.

11. It further appears that pursuant to the petitioner working in the said post for almost 2 (two) years, his service was terminated on 18.09.2023 by the respondent authorities on the ground that his appointment was irregular and that he was not in the list of selected candidates recommended by the selection committee and approved by the Government of Assam.

12. Interestingly, though the said termination order is stated to be issued on the basis of a fact finding report, no such report was communicated to the petitioner. In fact on 24.08.2023, the petitioner was directed to report and remain present before one Smt. Loly Hazarika, Guide Lecturer-cum-Exhibition Officer and one Smt. Basanti Das, Superintendant on 25.08.2023 at 3:00 p.m in the office chamber of the said Guide Lecturer-cum-Exhibition Officer, Assam State Museum.

13. A copy of the said notice is reproduced hereunder for ready reference:-

*“GOVERNMENT OF ASSAM  
DIRECTORATE OF MUSEUMS: GUWAHATI*

*No E-327609*

*Dated Guwahati, the 24th August 2023*

*From                      Sri Y.S. Wunglengton  
                                 OSD (In-charge Director)  
                                 Directorate of Museums, Assam  
                                 Guwahati-1*

*To                         Sri Ashimananda Bhuyan  
                                 Directorate of Museums, Assam  
                                 Guwahati-1*

Sub                      *Recording of statement regarding.*

Sir,

*With reference to the subject cited above, you are directed to report and remain present before Smt. Loly Hazarika, Gulde Lecturer-cum-Exhibition Officer & Smt. Basanti Das, Superintendant on 25<sup>th</sup> August 2023 (Friday) at 3:00 PM in the Office Chamber of Smt. Loly Hazarika, Guide Lecturer-cum- Exhibition Officer, Assam State Museum.*

*This is for your information and compliance.*

*Yours faithfully*

*Signed by Yazing Shimray  
Wunglengton*

*Date: 24-08-2023 16:18:49*

*OSD (In-charge Director)*

*Directorate of Museums, Assam  
Guwahati-1"*

14. Perusal of the above, apparent that the aforesaid notice does not even contain the particulars in respect of which the petitioner has been asked to be present before the said two Officers on the scheduled date i.e. 25.08.2023. Further it appears that on 25.08.2023, the petitioner appeared before the said two Officers.

15. Pursuant thereafter on 18.09.2023, the impugned termination order was issued. What is relevant to note is that no show-cause notice was issued to the petitioner to explain as regards the grounds on the basis of which termination order has been issued.

16. It further appears from the affidavit-in-opposition filed by the

respondent no. 2 that the respondent authorities admitted in the affidavit that the petitioner was appointed by order dated 28.06.2021 to the post of Peon (Grade-IV), however, the contention of the respondent is that the said appointment was inadvertently done without having recommendation of the selection committee.

17. Be that as it may, once an appointment is made, the incumbent if is sought to be terminated and the same is stigmatic, the incumbent is entitled for a notice.

18. Admittedly, in the present case, no notice whatsoever was issued to the petitioner before issuance of the impugned termination order.

19. That being so, the impugned termination order dated 18.09.2023 is in contravention of the principles of natural justice and therefore is illegal, null and void.

20. Resultantly, the impugned termination order dated 18.09.2023 is set aside and quashed.

21. It is needless to be clarified that the respondent authorities are at liberty to proceed against the petitioner in accordance with law, if they so desire.

22. With above observations and direction, this writ petition stands disposed of.

**JUDGE**