

GAHC010018302015



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

Case No. : WP(C)/4440/2015

RATNESWAR BORAH
S/O- LT. KUNJA MOHAN BORAH, VILL. and P.O.- JAGI, P.S.- JAGIROAD,
DIST.- MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., DISPUR, GHY- 6.

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

3:THE DIST. SOCIAL WELFARE OFFICER
MORIGAON
P.O. and DIST.- MORIGAON
ASSAM.

4:THE CHILD DEVELOPMENT PROJECT OFFICER
MAYONG ICDS PROJECT
JAGIROAD
DIST.- MORIGAON
ASSAM

Advocate for the Petitioner : MRA R BHUYAN, MR.R ISLAM,MS.R A MOSTAFI,MS.K BHUYAN

Advocate for the Respondent : SC, SOCIAL WELFARER1-4, ,,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 01.08.2024

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Ms. M. Battacharjee, learned Addl. Senior Government Advocate appearing for the respondents.

The petitioner, in the present proceeding has prayed for the following reliefs:-

- (a) a writ of or in the nature of Mandamus and/or any other appropriate writ, order or direction shall not be issued to the respondents, more particularly, the Respondent no. 2 to regularize the service of the petitioner as Grade-IV employee basing upon his engagement, approval and continuation of long service; and/or
- (b) a writ of or in the nature of like nature shall not be issued directing the Respondents to dispose of the representations submitted by the petitioner which have been forwarded by the Respondent no. 4; and/or
- (c) a writ of or in the nature of Mandamus shall not be issued directing the Respondents to make payment the salaries due to be paid to the petitioner w.e.f. 01.02.2000 to till date for his continues service as Grade-IV employee in the Mayong ICDS Project; and

A perusal of the materials brought on record would go to show that the petitioner was initially engaged for a period of 2(two) months against a leave vacancy on a daily wage @ of Rs. 30/- per day vide an order dated 01.04.1996. Thereafter, the petitioner was continued to be so engaged on a consolidated pay @ of Rs. 900/- per month. It is seen that the services of the petitioner, as per the need of the institution, was continued to be extended for the period of 3(three) months vide various orders.

The respondents, by filing an affidavit in the matter has contended that the services of the petitioner was extended on a consolidated pay @ of Rs. 900/- per month till 31.10.1999, vide an order dated 12.01.2001 and thereafter, the services of the petitioner was not so extended.

The learned counsel for the petitioner, on being queried as to whether the petitioner is continuing to discharge his duties and if so, under what authority, the learned counsel for the petitioner has fairly submitted that the said instructions are not available with him. However, Ms. Bhattacharjee, learned Addl. Senior Government Advocate submits, on instructions, that the petitioner was so engaged in the establishment of the Mayong ICDS Project w.e.f. 01.04.1996 to 31.10.1999.

The above being the position as regards the services of the petitioner herein, the prayer as made by the petitioner for regularization of his services cannot be exceeded to, inasmuch as, the services of the petitioner was so engaged against leave vacancies arising in the establishment of the respondent no. 4 and there is no materials to show that the petitioner was continued to be engaged in the said establishment after 31.10.1999.

However, keeping in view the contention of the petitioner herein that his services was being continued to be extracted even after 31.10.1999, without any order being so issued, the Director of Women and Child Development, Assam shall cause an enquiry into the matter as to whether the services of the petitioner was being so utilized after 31.10.1999 and if so, under what authority such services of the petitioner was being so utilized.

On such enquiry being made, if it is found that the services of the petitioner was in fact being so utilized after 31.10.1999, the Director of Women and Child Development, Assam shall compute the wages that would now be required to be authorized to the petitioner for such services as extracted from him after 31.10.1999.

The petitioner, for the above purpose shall submit a representation before the Director of Women and Child Development, Assam, giving the details of the services as rendered by him. The Director of Women and Child Development, Assam, on consideration of such representation shall comply with the directions as passed herein above and pass a speaking order within 3(three) months from the date of receipt of certified copy of this order along with the representation of the petitioner.

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

JUDGE

Comparing Assistant