

GAHC010007632012



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

Case No. : WP(C)/3906/2012

SANKAR SAHU S/O SRI BANUWARI SAHU, R/O TEKELA GAON, P.O.
DIKRANG, P.S. BIHPURIA, DIST- LAKHIMPUR, ASSAM

VERSUS

THE ASSAM STATE ELECTRICITY BOARD and ORS
Represented by its CHAIRMAN BIJULI BHAWAN, PALTANBAZAR, GHY-1

2:THE CHIEF GENERAL MANAGER D
CAZ APDCL PALTANBAZAR GHY-1

3:THE DY. GENERAL MANAGER HR APDCL UAZ BIJULEE BHAWAN
PALTANBAZAR GHY-1

4:THE GENERAL MANAGER NORTH ASSAM ZONE CAZ APDCL TEZPUR

5:THE GENERAL MANAGER UAZ APDCL JORHAT

6:THE DY. GENERAL MANAGER NORTH LAKHIMPUR ELECTRICAL
CIRCLE APDCL NORTH LAKHIMPUR

Advocate for the Petitioner : MR.N C DAS

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 18.03.2024

Heard Mr. N. C. Das, learned senior counsel, assisted by Ms. M. Devi, learned counsel, appearing on behalf of the petitioner. Also heard Mr. B. Choudhury, learned standing counsel, APDCL, appearing on behalf of all the respondents.

2. The grievance as raised in the present proceedings, by the petitioner, pertains to the action/inaction on the part of the respondent authorities in not engaging him against an approved vacancy of Sahayak in pursuance to a recruitment process held for the said post wherein, the name of the petitioner figured at Serial No. 14 in the select list. The petitioner has also raised a grievance with regard to his non-engagement as a casual labour in pursuance to a process initiated by the respondents vide the communication, dated 15.12.2011.

3. The petitioner was engaged in the year 1996 as a Meter Reader and Electrical Bill Server in Bihpuria Electrical Sub-Division, in the erstwhile, ASEB. It is the contention of the petitioner that the Chief General Manager(D), CAZ, APDCL, vide his communication, dated 15.12.2011, directed for engagement of casual labourers in various sub-divisions of the North Lakhimpur Electrical Circle for a period w.e.f. 15.12.2011 to 31.03.2012.

4. It is the case of the petitioner that although he was working as a Meter Reader and Electrical Bill Server; his case for appointment on casual basis was not considered and he was required to continue in his services as before. Thereafter, it is seen that the respondent authorities had initiated a selection process for filling up of 34 vacant posts of Sahayak in the North Lakhimpur Electrical Circle.

5. On conclusion of the said selection process, a select list along with a waiting list for the post of Sahayak in the North Lakhimpur Electrical Circle, was published. In the said waiting list, the name of the petitioner figures at Serial No. 14. The petitioner not being appointed in pursuance to his such placement in the said waiting list, the petitioner has instituted the present proceedings with a specific plea that out of the 34 posts of Sahayak filled-up; 24 posts were so filled-up by appointing persons outside

the select list in question.

6. The respondents by way of filing an affidavit, have contended that the petitioner's case for engagement on casual basis could not be considered in-as-much as such engagement in pursuance to the communication, dated 15.12.2011, was so effected basing on the recommendations made by the Sub-Divisional Engineer and the case of the petitioner not being recommended by the jurisdictional Sub-Divisional Engineer, his case could not be so considered for appointment on casual basis.

7. With regard to the contention of the petitioner of his non-appointment even after inclusion of his name in the waiting list for the 34 posts of Sahayak, it was contended by the respondents that the posts which were put to process of recruitment, were filled-up from the main select list and there arose no occasion for utilizing the waiting list and accordingly, the persons above the petitioner in the waiting list not having been appointed, the case of the petitioner naturally did not merit consideration. It was further contended that the services of the petitioner was discontinued from the month of November, 2010.

8. The petitioner by filing a rejoinder affidavit has contended that he was continuing in his services and was being paid his wages. As such, it was contended that the stand of the respondents that his services were discontinued w.e.f. November, 2010, was perverse.

9. I have heard the submissions of the learned counsel appearing for the parties and also perused the materials available on record.

10. The contentions raised by the petitioner pertaining to non-consideration of his case for engagement as a casual labour in pursuance to the said communication, dated 15.12.2011, was clarified by the respondents by contending that such engagements were made on the basis of the recommendations made by the jurisdictional Sub-Divisional Engineer and the name of the petitioner not being so recommended, the case of the petitioner could not be considered for such appointment. The petitioner has not brought on record any material to counter the said stand of the respondents. The petitioner has also not levelled any allegation of mala fides against the Sub-Divisional Engineer in not recommending his name. Further, the petitioner has also not assailed the engagement of any other person on casual basis in pursuance to the said communication, dated 15.12.2011. Accordingly, no direction can be issued to the respondent authorities for engagement of the petitioner in terms of the said communication, dated 15.12.2011, moreso, when such engagement was stated to be for a limited period of time.

11. With regard to the issue raised by the petitioner pertaining to his non-appointment as Sahayak, in pursuance to the recruitment process held for the same and wherein, the name of the petitioner was placed at Serial No. 14 in the combined waiting list so prepared; it is to be noted that the respondents have contended that the posts as available were filled-up from the main select list and there was no occasion requiring the respondents to give effect to the waiting list in question. The persons placed above the petitioner in the said waiting list, not being offered an appointment, there arose no occasion for the respondents to consider the case of the petitioner for such appointment.

12. The petitioner has contended in the writ petition that out of the 34 posts of Sahayak that were put up for recruitment; 24 posts were so filled-up from persons

whose names does not figure in the select list so prepared. However, the said statement of the petitioner is not been supported by any document brought on record and further the 24 persons so stated to have been appointed beyond the select list, have not been made party respondents in the present proceedings. In absence of the persons whose rights stand to be affected, in the event, this Court proceeds to interfere with the appointments made against the post of Sahayak, this Court is not in a position to adjudicate the above-noted contention of the petitioner. Accordingly, the appointments as effected against the post of Sahayak and assailed in the present proceedings, are not interfered with.

13. Although the respondents have contended in their affidavit that the petitioner's services was discontinued since November, 2010, however, the same was disputed by the petitioner in the rejoinder affidavit filed by him wherein, he has categorically stated by bringing on record, materials to show that he was being continued in his services and he was also drawing his wages. During the hearing, Mr. Choudhury, learned standing counsel for the APDCL, on instructions, has submitted that the petitioner is being continued in his services, till date.

14. In view of the above, while not entertaining this writ petition as preferred by the writ petitioner; this Court directs that the services of the petitioner be continued with in terms of the policy in place in this connection in the APDCL and his service benefits for the period he is so rendering his services, be also released to him.

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

JUDGE

Comparing Assistant