



GAHC010080512023

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

Case No. : WP(C)/2437/2023

NURJAHAN BEGUM
W/O- MD. LOOKMAN HEKIM,
VILL- DHINGARATI,
P.O.- LAHARIGHAT,
P.S.- LAHARIGHAT,
DIST.- MORIGAON (ASSAM),
PIN- 782127.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
SOCIAL WELFARE DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI- 781001.

3:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM.

4:DISTRICT SOCIAL WELFARE OFFICER
MORIGAON
(ASSAM).

5:DIVISIONAL PROGRAM OFFICER
DIST.- MORIGAON



6:THE CIRCLE OFFICER
LAHARIGHAT CIRCLE (R)
MORIGAON.

7:THE CHILD DEVELOPMENT PROJECT OFFICER
LAHARIGHAT ICDS PROJECT
KUSHTOLI
MORIGAON (ASSAM)

Advocate for the Petitioner : MR. N ISLAM

Advocate for the Respondent : GA, ASSAM

Before

Hon'ble mr. justice Sanjay Kumar Medhi

For the Petitioner : Shri TN Srinivasan, Advocate.

For the Respondents : Shri CS Hazarika, GA, Assam.

Dates of Hearing : 30.04.2024.

Date of Judgment : 30.40.2024.

JUDGMENT & ORDER

Heard Shri TN Srinivasan, learned counsel for the petitioner. Also heard Shri CS Hazarika, learned State Counsel, Assam for the official respondents.

2. The challenge in this writ petition is against the action of the respondent authorities in terminating the services of the petitioner as an Anganwadi Worker. The principal ground of challenge is violation of the principles of natural justice and not adhering to a fair procedure. An additional issue of non-payment of the



honorarium for a particular period has also been raised.

3. The facts projected are that vide an order dated 26.03.2002, the services of the petitioner was engaged as an Anganwadi Helper in the No. 125 Dhingarati Anganwadi Centre in the district of Morigaon.

4. After serving in the said post, the said services of the petitioner was upgraded to the post of Anganwadi Worker vide an order dated 05.07.2014. While discharging her duties, it is the case of the petitioner that vide an order dated 23.02.2023, her services were terminated. The petitioner claims to have submitted a representation on 09.03.2023 which has not been considered and accordingly, the present writ petition has been filed.

5. Shri Srinivasan, learned counsel for the petitioner has formulated his challenge in the following manner:

- i) The order of termination does not assign any reasons and therefore, such termination is arbitrary and unreasonable;
- ii) The impugned order does not reflect that the petitioner was given a fair opportunity to defend herself even assuming that there were some allegations *qua* the services rendered by the petitioner; and
- iii) There was no inquiry conducted to come to a finding whereby allegations, if any, were held to be substantiated.



6. The learned counsel for the petitioner, as indicated above, has also contended that the honorarium before her termination has not been paid to her. To be more precise, the period has been quantified from March, 2022 to till the date of termination of her services which is in February, 2023.

7. *Per contra*, Shri Hazarika, learned State Counsel has submitted that the factual projection made by the petitioner is not correct. By referring to the affidavit-in-opposition filed by the respondent no. 7 on 01.08.2023, the learned State Counsel has submitted that the Centre was initially at the residence of the petitioner. After upgrading the services of the petitioner from Anganwadi Helper to Anganwadi Worker, there was a requirement of filling up the post of Anganwadi Helper in which the daughter of the petitioner was one of the aspirants. However, in the selection held, the daughter of the petitioner was not successful and therefore, the petitioner had created problems for the selected Anganwadi Helper in joining and discharging the duties. Consequently, the functioning of the Centre as such, was hampered and the entire objective to have the Centre was being defeated. It is submitted that to overcome the said situation, even the Anganwadi Centre had to be shifted to another location.

8. As regards the aspect of not giving the opportunity and the issue raised pertaining to violation of the principles of natural justice, the learned State Counsel has submitted that three numbers of communications in the form of show cause notices were issued to the petitioner. In this connection, reference has been made to the communication dated 20.02.2023 issued by the Director, Women and Child Development, Assam which would reflect the details of the aforesaid three numbers of show cause notices. It is submitted that in the



affidavit-in-reply, the receipt of such show cause notices appear to have been admitted vide the communication dated 08.07.2022 made by the petitioner. The action for termination of the services of the petitioner had to be taken in the public interest and was done by following due process of law.

9. In his rejoinder, Shri Srinivasan, learned counsel has submitted that though there is a reference of certain complaints, the details of such complaints are not reflected in the in the impugned order.

10. The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

11. The grounds of challenge, as observed above, are mainly towards not assigning reasons for terminating the services and the action being in violation of the principles of natural justice.

12. Before going into the issue which has been raised in this petition, it is to be reminded that the post in question involves voluntary services and only honorarium is paid. It cannot be equated with a normal civil post/government post wherein such services are governed by a particular set of Rules.

13. Be that as it may, it is equally true that before any adverse action is taken *qua* the services of an incumbent, the principles of natural justice is required to be adhered to. What is, therefore required to be examined in this case, is as to whether such principles of natural justice were adhered to or not.



14. The projection made by the learned counsel for the petitioner that no reasons were assigned and no opportunity was granted does not appear to be consistent with the materials on record. The order dated 20.02.2023 of the Director, Women and Child Development, Assam which was referred to by the learned State Counsel has specifically mentioned three numbers of show cause notices which are as follows:

- i) No.CDPO(LG)/6/2007-08/265 dtd 24-3-2022;
- ii) No.CDPO(LG)/6/2007-08/266 dtd 23-5-2022; and
- iii) No.CDPO(LG)/6/2007-08/267 dtd 11-8-2021.

15. This Court has also noticed that in the affidavit-in-reply filed by the petitioner, she has annexed a reply to the show cause notice wherefrom it is apparent that she was aware of the reasons as well as the fact that due opportunity was granted to her to defend herself. The reason which appears from the materials on record would go to the root of the matter which involves a smooth running of the Anganwadi Centre in question and it appears that the petitioner was acting as an impediment in the smooth running of the Anganwadi Centre only because of the reason that her daughter was not inducted as an Anganwadi Helper in the said Centre. The requirement to shift the Centre from the earlier place which was the residence of the petitioner has also been brought to record.

16. Under the aforesaid facts and circumstances, this Court is of the considered opinion that the present challenge is not sustainable, more so when



the grounds taken in support of such challenge do not appear to be substantiated. The writ petition is held to be without any merit and accordingly dismissed. However, the dismissal of the writ petition is only on the aspect of the termination of service. The other aspect regarding non-payment of honorarium from the period from March, 2022 to the date of termination, however, is also required to be redressed. The respondent authorities are accordingly directed to pass appropriate orders towards payment of the necessary honorarium to the petitioner for the period in question. The said exercise be undertaken and completed within a period of 90 days from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant