

GAHC010012742020



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

Case : WP(C)/3323/2020

SANJAY SARMA
S/O SRI ANIL KANTI SARMA

RESIDENT OF BILASIPARA TOWN WARD NO. 11
PO HAKMA
DIST DHUBRI ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
THROUGH THE SECRETARY TO THE GOVERNMENT OF ASSAM MUNICIPAL
ADMINISTRATION DEPARTMENT
DISPUR
GUWAHATI 781006

2:THE DIRECTOR OF MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI 781006

3:BILASIPARA MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRMAN
PO AND PS BILASIPARA
DHUBRI ASSAM

4:THE EXECUTIVE OFFICER
BILASIPARA MUNICIPAL BOARD

PO AND PS BILASIPARA
DHUBRI ASSAM

5:DIMPLE KALITA
C/O THE EXECUTIVE OFFICER
BILASIPARA MUNICIPAL BOARD

PO AND PS- BILASIPARA
DIST-DHUBRI
ASSAM.

Advocate for : MR. S C BISWAS

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 19-03-2026

Heard Mr. S.C. Biswas, learned counsel for the writ petitioner. Also heard Mr. N. Das, learned Govt. Advocate, Assam appearing for the respondent Nos. 1 & 2 and Mr. A.K. Sarma, learned counsel representing Bilasipara Municipal Board, i.e. respondent Nos. 3 & 4.

2. The petitioner by way of instituting the present writ petition has presented a challenge to an order dated 31-12-2019, issued by the Executive Officer, Bilasipara Municipal Board, i.e. the respondent No. 4, disengaging the petitioner, herein, along with 04 (four) others, from their engagement as Muster Roll Worker in the Board, on account of the fact that they were held to be excess Muster Roll Workers.

3. The petitioner in the present writ petition has projected that he was appointed as Muster Roll Worker in the office of the Bilasipara Municipal Board and directed to perform the works of Tax Collector vide order dated 08-03-2019. The said order was so issued basing on the resolution adopted in this connection by the Municipal Board. The petitioner continued to discharge his duties and was vide order dated 31-12-2019, issued by the respondent No. 4, disengaged from his such Muster Roll engagement on the ground that the petitioner was an

excess Muster Roll Worker in the Board. The petitioner has further projected by way of an interlocutory application that after his disengagement, for the works for which he was so engaged one Dimple Kalita came to be so engaged and said Dimple Kalita is continuing in her services.

4. Accordingly, being aggrieved the petitioner has instituted the present writ petition.

5. Mr. S.C. Biswas, learned counsel for the petitioner after reiterating the facts noticed, hereinabove, has submitted that the petitioner after having rendered services in the Municipal Board, for a considerable period of time came to be disengaged vide order dated 31-12-2019 and the ground assigned, therein, was that the petitioner was an excess Muster Roll Worker. He further submits that from the pleadings brought on record by the Board authorities, it is evident that the petitioner's services was mandated to be so disengaged from Muster Roll Worker only on the ground that the Board did not have adequate funds to provide for the wages to the petitioner and other Muster Roll Workers disengaged along with the petitioner vide order dated 31-12-2019. Mr. Biswas has submitted that after the disengagement of the petitioner the Board authorities proceeded to effect further engagement in respect of three outsiders on Muster Roll/ fixed pay basis and also re-engagement of two ex-employees of the Board. He submits that the said engagement/ reengagement effected in the Board after the disengagement of the petitioner as Muster Roll Worker would go to reveal that the plea taken by the Board authorities about lack of fund, was just a cover up to legalize the disengagement of the of the petitioner and as projected by the petitioner in the writ petition, such disengagement was only for the purpose of engaging persons close to those in the helm of affairs of the Board at the relevant point of time.

6. In view of the above, Mr. Biswas submits that the impugned order dated 31-12-2019, insofar as, it concerns the petitioner, herein, would mandate interference with further direction to the respondent authorities to reengage the petitioner in Muster Roll capacity. Mr. Biswas also submits that in the event this Court on consideration finds that the order dated 31-12-2019, would not mandate interference, he prays that the Board authorities be directed to consider the case of the petitioner in future, in the event engagements are made on Muster Roll/ fixed pay basis in the Board and to engage him in such capacity by reckoning the services rendered by the petitioner since the date of his initial engagement, i.e. w.e.f. 08-03-2019 till 31-12-2019.

7. Per contra, Mr. A.K. Sarma, learned counsel for the respondent submits that the resolution adopted by the Board in the matter which has led to the issuance of the impugned order dated 31-12-2019, would go to reveal that such course of action was mandated to be taken by the Board authorities considering the fact that there was dearth of funds in the Board to pay the wages of the Muster Roll Workers. With regard to the plea raised by the petitioner that after disengagement of the petitioner, the respondent authorities had proceeded to make further engagement on Muster Roll/ fixed pay basis, Mr. Sarma, on instruction, submits that out of the persons highlighted by the petitioner, 03 (three) persons were in fact engaged in the Board, however, such engagement was prior to the date of disengagement of the petitioner. He submits that Pritam Patgiri who was projected to have been engaged by the Board on 14-08-2020 was infact engaged vide order dated 16-02-2019 on purely temporary basis for 89 days in view of the urgent nature of works arising under PMAY(U) scheme and allied works. With regard to the projection made in respect of Himangshu Roy, Mr. A.K. Sarma submits that the said person was never engaged in the Board

in any capacity. With regard to the projected engagement of Kabir Chandra Roy in August, 2020, Mr. Sarma submits that said Kabir Chandra Roy was infact engaged vide an order dated 12-09-2017 on compassionate grounds as a driver. With regard to the re-engagement of Mani Lal Chouhan and Raju Das, Mr. Sarma submits that while Mani Lal Chouhan an ex-employee of the Board was never re-engaged but Raju Das also an ex-employee was so re-engaged for a specific nature of work pertaining to PMAY(U) works. With regard to the engagement of one Dimple Kalita, he submits that the person may have been engaged, in view of a specific exigency arising in the matter. He submits that the engagements were made in the Board of persons on Ad-hoc basis for specific nature of works and for short durations. He submits that the nature of works discharged by the petitioner, while they were so engaged on Muster Roll basis and the works discharged by Pritam Patgiri, Kabir Chandra Roy and Raju Das or any such other person are separate and distinct and accordingly, basing on such engagement which were so made on account of necessity arising for the same in the Board, the petitioner cannot base their claim for re-engagement, thereon. Further he submits that vide an order dated 05-02-2020, the Government in the Municipal Administration Department had banned fresh appointment pending finalization of the stepping pattern in various Municipal Boards of the State.

8. I have heard the learned counsel for the parties and also perused the materials brought on record.

9. The facts noticed, hereinabove, are not in dispute and accordingly not reiterated. This Court has considered the contention raised in the matter by the learned counsel for the parties. The materials coming on record reveals that the services of the petitioner was required to be dispensed with, inasmuch as, he was found to be an excess Muster Roll worker

working in the Board. Further the Board had to take the said steps on account of the financial constraints faced by it. The petitioner being only engaged on Muster Roll basis, which itself indicates that such engagement was on account of necessity arising for hands to do the work involved, the said necessity existing having come to an end and the Board being faced with financial constraints, this Court would not be in a position to direct the Board authorities to continue to engage the petitioner, herein. Further the short engagement as effected in case of the petitioner, herein, would also not mandate a direction for regularization of his services, inasmuch as, no scheme is found to be in existence in this connection in the respondent Board. Accordingly, the order dated 31-12-2019, in the considered view of this Court, would not mandate any interference.

10. Having examined the order dated 31-12-2019, this Court would now examine the contention raised by the petitioner that after he was released from the Muster Roll service of the Board, the Board has proceeded to effect engage other on Muster Roll basis and accordingly, the petitioner contends that the ground assigned for the release of the petitioner from the Muster Roll services of the Board is clearly perverse. The said issue has been dealt with by the respondent Board in their affidavit and it was clarified that the engagements made were so made prior to the release of the petitioner from his Muster Roll service and the same was for specific nature of works arising in the Board and had no connection with the decision arrived at to release the petitioner from his Muster Roll service. The petitioner has not disputed the said position and further had not alleged any malafide against any officials of the respondent Board in releasing him from his Muster Roll service. Accordingly, on the said count also the claim made by the petitioner in the present writ petition would not mandate any interference.

10. Having drawn the above conclusions, this Court provides that in future in the event there is a need for engagement of hands on Muster Roll/ Casual or under any similar category, the case of the petitioner be considered provided he is found suitable for the works for which such engagement is contemplated. The release of the petitioner from the services of the respondent Board vide order dated 30-01-2019 be not held against him under such circumstances.

11. Writ petition stands disposed of accordingly.

JUDGE

Comparing Assistant