



2026:GAU-AS:827

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

WP(C) No. 6405 of 2014

Mr. Parvez Mohammed Choudhury,
S/o- Mr. Abdul Karim Choudhury,
R/o- House No. 16, Nabamilan Path,
Dr. Rajendra Prasad Road, Last Gate,
P.O & P.S. Dispur, Guwahati-781006
District- Kamrup (Metropolitan), Assam.

.....Petitioner

-Versus-

- 1.** The State of Assam, represented by the Principal Secretary to the Government of Assam, Guwahati Development Department, Assam Secretariat, Dispur, Guwahati- 781006.
- 2.** The Principal Secretary, Guwahati Development Department, Assam Secretariat, Dispur, Guwahati- 781006.
- 3.** The Gauhati Municipal Corporation, represented by its Commissioner, Panbazar, Guwahati- 781001.
- 4.** The Commissioner, Gauhati Municipal Corporation, Panbazar, Guwahati- 781001.

..... Respondents

- B E F O R E -

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Petitioner(s) : Mr. P. D. Nair, Advocate.

For the Respondent(s) : Mr. S. Bora, Standing Counsel, GMC &
GDD.

Date on which judgment

is reserved : **N/A**

Date of pronouncement

of judgment : **22.01.2026**

Whether the pronouncement

is of the operative part

of the judgment ? : **No.**

Whether the full judgment

has been pronounced : **Yes.**

JUDGMENT & ORDER (ORAL)

Heard Mr. P. D. Nair, learned counsel appearing for the petitioner. Also heard Mr. S. Bora, learned Standing Counsel appearing for the GMC and GDD.

2] By filing the instant writ petition the petitioner is assailing the impugned order dated 01.12.2014 issued by the respondent No. 4 , whereby the petitioner was released from service of the respondent No. 3.

3] The brief facts of the case are that the petitioner was appointed as an Administrative Officer (Business Administration) in the Gauhati Municipal Corporation

(hereinafter referred to as the "GMC") through a regular selection process with the approval of the Government of Assam initially for a period of 6 (six) months, and thereafter the same was extended till the finalization and acceptance of the staffing pattern of the GMC and the government. The Government of Assam with the concurrence of the Finance Department and the Guwahati Development Department (hereinafter referred to as the "GDD"), had accepted the staffing pattern of the GMC, and the State Cabinet had approved the regularization of the petitioner in the post, approving him the time scale of pay till his retirement. While the matter rested there, the respondent No. 4, by order dated 01.12.2014 suddenly released the petitioner from service of the Corporation stating the same to be in the interest of the public service. Aggrieved by the aforesaid release order, the present writ petition has been filed.

4] Mr. P. D. Nair, learned counsel appearing for the petitioner, submits that the aforesaid release is totally bad in law as the same is done without issuing any notice or giving any opportunity of being heard to the petitioner. He further submits that the Government of Assam having already accepted the staffing pattern and the State Cabinet having approved the regularization of the petitioner the service of the petitioner ought to have been regularized in the said post of Administrative Officer (Business Administration). However, instead the respondents have resorted to releasing the petitioner for vested interest. He further submits that along with the petitioner there has been another officer who has

been working as a Public Grievance Officer, in respect of which the Government of Assam and the GDD had accepted the staffing pattern of the GMC and had approved the regularization of that person. Though the State respondent had released the petitioner; however, the same person is still continuing.

5] *Per contra*, Mr. S. Bora, learned Standing Counsel appearing for the GMC and GDD, submits that the staffing pattern is not yet finalized and the service of the petitioner, having been in the nature of a contractual arrangement, was terminated in terms of the contractual appointment by giving the one month notice.

6] Having heard the learned counsels for the parties and having perused the material available on record, it appears that the petitioner was engaged as Administrative Officer (Business Administration) by the Commissioner, GMC, by letter dated 28.02.2011 on a purely contractual basis for a fixed period of time with the condition that the contract can be terminated at any time from either side with one month's notice, which was also later on extended until further orders. It further appears that thereafter the respondent GMC released the petitioner from service by issuing the release letter dated 01.12.2014, which read as under:

"OFFICE OF THE GUWAHATI MUNICIPAL CORPORATION

GUWAHATI

No. GPR/79/2010/131

Date: 01/12/2014

ORDER

In the interest of the public service, Sri Parvez Mohammed Choudhury, Administrative Officer (Business Administration) is hereby released from the service of Guwahati Municipal Corporation with immediate effect.

He will be paid the honorarium for the month of December, 2014 as per clause 7 of his original engagement letter vide No. GPR/79/2010/107/537 Dtd. 28th February, 2011.

SD/-

Commissioner,

Guwahati Municipal Corporation

Guwahati"

7] Reading the aforesaid release order it appears that the petitioner was released from his service with immediate effect from 01.12.2014. The contention of Mr. S. Bora, learned Standing Counsel appearing for the GMC and GDD, that the one month notice as contemplated under the terms and conditions of the contractual engagement dated 28.02.2011 was given to the petitioner on the face of record cannot be accepted. It is further apparent from the letter enclosed in the writ petition that the State Government has approved the regularization of the petitioner and has also provided the staffing pattern of the GMC in respect of the subject post. It appears that the office of the Commissioner, GMC by letter dated 16.08.2011, had sought for an extension of the term of the contract for the post of Administrative Officer (Business Administration) and Public Grievance Officer in GMC, i.e., one of the posts that the petitioner was holding.

It further appears that the Commissioner and Secretary to the Government of Assam, by letter dated 05.09.2011, were pleased to extend the service of the petitioner and the Public Grievance Officer till finalization of the staffing pattern by the study group and its acceptance by the government. It further appears that the State Cabinet thereafter approved 2706 nos. of posts including 1440 Nos. of Sweepers, 40 Data Entry Operators and 2 posts of fixed pay employee, i.e., Administrative Officer and Public Grievance Officer. It further appears that the State Cabinet further approved the regular post of Registrar/Superintendents and two fixed pay employees, i.e., Administrative Officer (Business Administration) and Public Grievance Officer (PGO) till retirement of the incumbents. It is further observed that it was also recommended that since the posts of Administrative Officer and Public Relation Officer (PGO) have been filled up by observing all formalities with the concurrence of the Finance Department their services may be regularized in the above scale of pay with immediate effect.

8] Thereafter the Government of Assam, GDD by notification dated 17.06.2014 was pleased to notify the staffing pattern of GMC. A perusal of the staffing pattern of GMC as enclosed in part of annexure P-12 in the writ petition, it appears that against the post of Administrative Officer (Business Administration), one staff has been approved and similarly one staff has also been approved in the Public Grievance Cell. It further appears that while notifying the staffing pattern the Additional Chief Secretary to the

Government of Assam, GDD has observed that the 4th Assam State Finance Commission recommended their post in the scale of Rs. 8000-35000-G.P. Rs. 4900/- and Rs. 8000-35000-G.P. 4700/-, respectively, and accordingly has opined that since the posts of Administrative Officer and Public Relation Officer (PGO) have been filled up by observing all formalities with the concurrence of the Finance Department their services may be regularized in the above scale of pay with immediate effect and that in respect of Administrative Officer (Business Administration) and Public Relation Officer (PGO).

9] It appears that despite the staffing pattern being notified and the service of the petitioner having been regularized as indicated above, suddenly the Commissioner, GMC by order dated 01.12.2014, issued the impugned order whereby the service of the petitioner was released from service with immediate effect in total contravention of the terms and conditions of the contractual engagement.

10] The grounds stated in the affidavit-in-opposition that it is not possible to regularize the petitioner in the post of Administrative Officer cannot be accepted in view of the fact that the State Government has already approved the regularization of the post of the petitioner and has also notified the staffing pattern. The stand of the respondent that the staffing pattern decided by the government requires modification and accordingly, was decided in a meeting held on 16.09.2015; however, the same is yet to be finalized is of no consequence in the instant case inasmuch as the service of the petitioner appears to have been already regularized upon

the pre-condition of staffing pattern being notified. The State Government cannot blow hot and cold as per its whim and caprice.

11] Surprisingly, it has been informed by Mr. P. D. Nair, learned counsel appearing for the petitioner, that during the pendency of the instant writ petition, the petitioner has been regularized as a regular Mazdoor by letter dated 10.02.2021; however, since the same is not an issue in the present writ petition, this court shall not comment on the aforesaid order and leaves the same to be adjudicated in the event a challenge is being presented before the competent forum.

12] In view of the above, this court is of the unhesitant view that the release order is illegal, arbitrary and capricious. Accordingly, the order dated 01.12.2014 issued by the respondent No. 4 (Commissioner, GMC) is hereby set aside and quashed.

13] The writ petition accordingly stands allowed.

JUDGE

Comparing Assistant