

Sidheswar Koch and Others Vs. the State of Assam, Represented by the Commissioner and Secretary to the Govt. of Assam, Agriculture Dept., Dispur, Guwahati and Others

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Court : Guwahati

Decided On : Dec-19-2011

Judge : B.K. Sharma

Appeal No. : WP(C) No. 4495 of 2010

Appellant : Sidheswar Koch and Others

Respondent : The State of Assam, Represented by the Commissioner and Secretary to the Govt. of Assam, Agriculture Dept., Dispur, Guwahati and Others

Advocate for Pet/Ap. : Mr. R. Goswami

Judgement :

ORAL:

1. Heard Mr. R. Goswami, learned counsel for the petitioner as well as Mr. S. Samaria, learned Standing Counsel, Agriculture Department.
2. By means of this writ petition, the four petitioners claiming themselves to be M.R. workers working in the Agriculture Department on being appointed prior to 1.4.1993, have claimed regularization of their services and release of their

admissible salary. So far as the prayer for regularization of services is concerned, no direction can be issued in view of the Full Bench decision of this Court reported in 2006(2) GLT 654(FB) (Jitendra Kalita Vs. State of Assam and Ors).

3. As regards the prayer for release of salary, according to the petitioner, they are entitled to receive the same for the year 2007-08. On the other hand, the respondents have denied the very existence of the petitioners in their employment roll. In the counter affidavit filed on 3.9.2011, the respondents have stated that the petitioners were not engaged as MR workers in the Office of the AEE(Agri) Raha, Nagaon for any period of time. It has also been stated that the EE(Agri) Nagaon, was directed to conduct an enquiry and the enquiry report reveals that the engagement of MR workers in question is doubtful and that number of manipulations are found in the records like Attendance Register, Contingency Register, Bill Register and MR statement, which appears to be fictitious. The authority in the Agriculture Department has been directed for further investigation to find out the persons involved in preparation of such fictitious documents.

4. According to the respondents, since the petitioners were not engaged as MR Workers, there is no question of payment of salary. The respondents have even denied receipt of application purportedly submitted by the petitioners urging for regularization of their services. In paragraph 5 of the counter affidavit, it has been stated that the plea of the petitioners that the letter dated 28.5.2007, was issued by the AEE (Agri), Raha, now AEE(Agri), Tezpur Division, Tezpur, is a forged document. In this connection, the said AEE has issued a declaration (Annexure-3).

5. Similar statement has been made in paragraph 6 of the counter affidavit in reference to the purported proposal indicated by the petitioners in paragraph 5. According to the respondents, no such proposal was received.

6. Mr. R. Goswami, learned counsel of the petitioners, however, submits that in view of the assertions made by the petitioners in their affidavit-in-reply, the stand of the respondents in their counter affidavit is contradictory and that the Director of Agriculture should cause an enquiry to find out the real truth. To this, Mr. Samaria, learned Standing Counsel, Agriculture Department, submits that since an enquiry has already been conducted, there is no requirement of conducting any further

enquiry.

7. From the above discussions, what is seen is that there is claim and counter claim regarding the engagement of the petitioners as MR Workers in the Agriculture Department. Disputed question of facts are also involved. This Court exercising its power of judicial review under Article 226 of the Constitution of India cannot make any roving enquiry to find out the veracity or otherwise of the claim of the petitioners.

8. In view of the above, this writ petition is disposed of providing that in the event of furnishing adequate materials by the petitioners regarding their engagement and / or continued engagement, the respondents may cause an enquiry to find out the veracity or otherwise of the same and pass appropriate order.

9. With the above observations, the writ petition stands disposed of, without however, any order as to costs.

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