

(2000) 02 GAU CK 0023
In the Gauhati High Court
Case No : C.R. No. 3073 of 1995

Jalini Brahma and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 22-02-2000

Acts Referred:

Citation : (2000) 87 FLR 949 : (2000) 2 GLT 78 : (2000) 2 LLJ 946

Hon'ble Judges : P.G. Agarwal, J

Bench : Single Bench

Advocate : A.S. Choudhury, R. Mazumdar, I. Hussain, S. Seal and B.K. Purkayastha, for the Appellant; D. Sur and T. Chutia, for the Respondent

Judgement

P.G. Agarwal, J.—Heard Shri A.S. Choudhury, learned counsel for the petitioner, Mr. D. Sur learned counsel for the Union of India and Sri T. Chutia, learned Government Advocate for the State of Assam.

2. The 54 Nos. of petitioners before this Court were appointed as Female Attendants in the various Primary Health Centres, for short P.H.C. from the year 1979 to 1994. Although the appointments were by the State of Assam but they were appointed under the Centrally sponsored scheme under which the petitioners were paid remuneration @ Rs. 50/- per month. The writ petitioners are continuing to serve at the fabulous salary of Rs. 50/- per month to get their soul and body intact. From time to time the petitioners made applications, representations before the State Government as well as the Central Government but both the Governments remained oblivious of their problem and the petitioners are continuing to serve and suffer. Petitioners have now approached this Court under Article 226 of the Constitution of India praying for two reliefs: (1) they may be paid minimum wages/minimum scale provided to Government employees serving in similar post; (2) for regularisation of their services. In spite of sufficient opportunity given, neither the Union of India nor the State Government has filed any affidavit-in-opposition.

3. Learned counsel for the petitioner has submitted that the provisions of the Minimum Wages Act is applicable in the State of Assam and neither the State Government nor the Central Government are exempted from the purview of the said Act. Moreover, the State being a model employer is expected to provide minimum wages to its employees. In the instant case instead of giving solace to them these poor female Attendants are exploited in the name of employment by paying a sum of Rs. 50/- only per month for the last 15 years. Learned counsel has also relied on a decision of the Apex Court in the case of Daily Rated Casual Labour Employed under P and T Department Vs. Union of India (UOI) and Others, and in the case of The Dharwad Distt. P.W.D. Literate Daily Wages Employees Association and others, etc. Vs. State of Karnataka and others etc., The Supreme Court in that case observed at p. 322 of LLJ:

"8. That the State cannot deny atleast the minimum pay in the pay scale of regularly employed workman even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees."

Supreme Court further pointed out that:

"Such denial amounts to exploitation of labour. The Government cannot take advantage of its dominant position and compel any worker to work ever as a Casual Labourer on starvation wages. It may be that the casual labourer has agreed to work on such low wages. That he has done because he has no other choice. It is poverty that has driven him to that stage. The Government should be a model employer."

4. Following the above decision, this Court in the case of Smt. Nandeswari Bora v. State of Assam and Ors. (Civil Rule No. 3847/1993) disposed of on July 18, 1994 granting necessary relief.

5. Learned counsel for the respondents have not been able to show anything whereby the petitioners can be deprived of their minimum wages. It is submitted that the ROP Rules of 1990 provided a pay scale of Rs. 900-1435/- for the post of Female Attendants. Accordingly, I direct all the 7 respondents to pay the petitioner the minimum wages of Rs. 900/- per month from the month of July, 1999 or from the date of their employment, whichever is later. The current salary at the above rate shall be paid forth-with and the arrear shall be released within a period of six months from today. So far the relief of regularisation, as sought for, is concerned, the matter is left to the State Government to consider the same.