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Rabin Medhi Vs State of Assam

Civil Rule No. 148 of 1996

Court: Gauhati High Court

Date of Decision: June 24, 1996

Acts Referred:
Constitution of India, 1950 â€" Article 23, 23

Citation: (1998) 3 GLJ 596

Hon'ble Judges: J.N.Sarma, J

Bench: Single Bench

Advocate: D.Choudhary, A.K.Choudhary, Advocates appearing for Parties

Judgement

1. The petitioners are continuing as casual employees since 1989. In that view of the matter, the case of the petitioners for regularisation shall be

considered as and when the regular vacancy arises. Continuation of the petitioners for the period of eight years shows that there is requirement of

service of the petitioner.

2. Accordingly, the petitioners shall not be thrown out from their services.

3. It is also submitted that the petitioners have not received their salary. That will be evident from two circulars issued by the Chief Medical &

Health Officer, Nalbari, That are quoted below :

The Director of Health Services, Assam Hengrabari, Guwahati 6.

Ref : DHS order No. HSE/53/73/Pt/6146 dated 10.5.91.

Sir,

I have the honour to inform you that 2 casual employees had been engaged vide sanction mentioned above but the terms expiry on 4.2.92.

I, therefore, request you kindly to extend sanction for two nos of casual employees against Nalbari Civil Hospital as they have been engaged again

wef 6.2.92 in the interest of public services and for shortage of Grade IV staff at Nalbari Civil Hospital.

Certified that the following named casual employees working at Nalbari Civil Hospital till today since last 25.2.91. But from 5.2.92 they are not

getting their wages. So, they may kindly be allowed to work with pay. Name of the employee :

1. Sri Rabin Medhi, S/o Late Mittandanda Medhi, Japarkuchi.

2. Sri Nripen Nath, S/o Sri Parsu Ram Medhi, Vill : Dhantola.

4. From these two Annexures it is crystal clear that the petitioners are working. If the petitioners are working, they are entitled to receive their

salary inasmuch as the service of a person cannot be utilised by the authority in gratis and if it is allowed that will be violative of Article 23 of the

Constitution of India and that will amount to forced labour.

5. Accordingly, the respondents shall do the needful to pay the salary of the petitioners within a period of three (3) months from the date of receipt

of this order.

6. I have heard Sri D. Choudhury, Advocate for the petitioners and Smti U. Barua, Advocate for the respondents. No affidavitinopposition has

been filed. No record has been produced.