



**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.101 of 2025

1. The State of Tripura, to be represented by the Secretary, Social Welfare and Social Education, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
2. The Secretary, Department of Social Welfare and Social Education Govt. of Tripura, New Secretariat Building, New capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
3. The Secretary, Department of Finance, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
4. The Director, Social Welfare and Social Education, Malancha, Ujan Abhoynagar, Agartala, West Tripura.
5. Child Development Project Officer, Damcherra ICDS Project, North Tripura.

..... Appellant(s).

V E R S U S

1. Smt. Dhayarung Reang alias Daya Bati Reang, W/O. Shri Lalbeiseia Reang, R/O. Kheracherra, VTC-Monacherra, Dist- North Tripura.
2. Smt. Phorbati Reang alias Fharbati Reang, W/O. Shri Debsngghi Reang, R/O. Khedacherra, Monacherra, Dist-North Tripura.
3. Smt. Pusaiti Reang alias Pusairung Reang, W/O. Bidhayaham Reang, R/O. Kacharicherra, Dist-North Tripura.
4. Smt. Sabitri Reang, W/O. Nanda Kumar Reang, R/O. Shantipur ICDS center, Kacharicherra, Dist-North Tripura.
5. Smt. Purenti Reang, W/O. Shri Birdhiram Reang, R/O. Shantipur ICDS center, Kacharicherra, Dist-North Tripura.
6. Smt. Jalirung Reang, W/O. Shri Pradip Molsom, R/O. 48 Uricherra, Santipur, Kachiacherra, Dist-North Tripura.
7. Smt. Salukrung Reang alias Salukti Reang, W/O. Shri Aingyak Rai Reang, R/O. Shantipurpara, Kacharicherra, Dist-North Tripura.
8. Smt. Gahanbati Reang, W/O. Botan Pranjoy Reang, R/O. Khedacherra, Monacherra, Dist-North Tripura.
9. Smt. Gomaiti Reang alias Gumoti Reang, W/O. Lalnuzira Reang, R/O. Khedacherra, Monaicherra, Dist-North Tripura.
10. The Union of India, to be represented by the Secretary, Ministry of Women and Child Development, Govt. of India, Shastriya Bhawan, New Delhi.

.....Respondent(s).

**W.A. No.114 of 2025**

1. The State of Tripura, to be represented by the Secretary, Social Welfare and Social Education, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
2. The Secretary, Department of Social Welfare and Social Education Govt. of Tripura, New Secretariat Building, New capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
3. The Secretary, Department of Finance, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.
4. The Director, Social Welfare and Social Education, Malancha, Ujan Abhoynagar, Agartala, West Tripura.
5. Child Development Project Officer, Damcherra ICDS Project, North Tripura.

..... Appellant(s).

V E R S U S

1. Smt. Ruati Reang, W/O. Shri Aichu Rai Reang, R/O. Kancharichhara, Dist-North Tripura, Aged-50 years.
2. The Union of India, to be represented by the Secretary, Ministry of Women and Child Development, Govt. of India, Shastriya Bhawan, New Delhi.

.....Respondent(s).

For Appellant(s)

: Mr. S.M. Chakraborti, Advocate General,
Mr. Dipankar Sarma, Addl. G.A.

For Respondent(s)

: Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mrs. Aradhita Debbarma, Advocate.**W.A. No.16 of 2026**

1. Smt. Dhayarung Reang alias Daya Bati Reang, W/O. Shri Lalbeiseia Reang, R/O. Kheracherra, VTC-Monacherra, Dist- North Tripura.
2. Smt. Phorbati Reang alias Fharbati Reang, W/O. Shri Debsngi Reang, R/O. Khedacherra, Monacherra, Dist-North Tripura.
3. Smt. Pusaiti Reang alias Pusairung Reang, W/O. Bidhayaham Reang, R/O. Kacharicherra, Dist-North Tripura.
4. Smt. Sabitri Reang, W/O. Nanda Kumar Reang, R/O. Shantipur ICDS center, Kacharicherra, Dist-North Tripura.
5. Smt. Purenti Reang, W/O. Shri Birdhiram Reang, R/O. Shantipur ICDS center, Kacharicherra, Dist-North Tripura.
6. Smt. Jalirung Reang, W/O. Shri Pradip Molsom, R/O. 48 Uricherra, Santipur, Kachiacherra, Dist-North Tripura.



7. Smt. Salukrung Reang alias Salukti Reang, W/O. Shri Aingyak Rai Reang, R/O. Shantipurpara, Kacharicherra, Dist-North Tripura.

8. Smt. Gahanbati Reang, W/O. Botan Pranjoy Reang, R/O. Khedacherra, Monacherra, Dist-North Tripura.

9. Smt. Gomaiti Reang alias Gumoti Reang, W/O. Lalnunzira Reang, R/O. Khedacherra, Monaicherra, Dist-North Tripura.

..... Appellant(s).

V E R S U S

1. The State of Tripura, to be represented by the Secretary, Department of Social Welfare and Social Education, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.

2. The Secretary, Department of Finance, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.

3. The Director, Social Welfare and Social Education, Malancha, Ujan Abhoynagar, Agartala, West Tripura, Pin-799005.

4. The Child Development Project Officer, Damcherra ICDS Project, North Tripura, Pin-799256.

.....Respondent(s).

For Appellant(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mrs. Aradhita Debbarma, Advocate.

For Respondent(s) : Mr. S.M. Chakraborti, Advocate General,
Mr. Dipankar Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

Date of hearing : **30.03.2026.**

Date of judgment : **29.04.2026.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1) Heard Mr. Purusuttam Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, counsel appearing for the appellants/



petitioners and Mr. Dipankar Sarma, Additional Government Advocate appearing for the State respondents.

2) Writ Appeal No.16 of 2026 and Writ Appeal No.101 of 2025 arise out of the same judgment dt.24.07.2025 of the learned Single Judge in WP(C) No.550 of 2024.

3) Writ Appeal No.114 of 2025 arises out of the judgment dt.10.09.2025 of the learned Single Judge in WP(C) No.518 of 2025, where the learned Single Judge had followed the judgment dt.24.07.2025 in WP(C) No.550 of 2024 and granted relief partly to the petitioners in the WP(C) No.518 of 2025/ respondents in the said appeal.

4) The appellants in W.A. No.101 of 2025 and W.A. No.114 of 2025 are the State of Tripura and its officers. They shall be referred to in this judgment as "State".

5) The respondents in those Writ Appeals as well as the appellants in W.A. No.16 of 2026 will be referred to henceforth as "petitioners".

6) Petitioners 1, 2, 4, 6 & 8 were engaged as Anganwadi Workers and petitioners 3, 5, 7 & 9 in WP(C) No.550 of 2024 were engaged as Anganwadi Helper in different Anganwadi centres under the Damcherra ICDS Project . The sole petitioner in WP(C) No.518 of 2025 was engaged as Anganwadi Helper in one of the Anganwadi centres under the Damcherra ICDS Project. They had been discharging their duties in their respective Anganwadi centres ever since their respective dates of appointment between 2007 and 2010 to the full satisfaction of the competent authority.

7) Meanwhile, the Child Development Project Officer of Damcherra ICDS Project issued one memorandum dt.28.12.2022 mentioning that 5



Anganwadi centres situated at Khakchang Para Nos.1 to 5, where the petitioners were working as Anganwadi Workers and Anganwadi Helpers, were shifted from Khakchang Para to Khahamthai Para without his consent, that all Anganwadi centres of Khakchang Para were closed (locked) with all equipments and utensils, and all the Bru people were also shifted from Khakchang Para Bru camp to Khahamthai Para Bru camp in the last week of November, 2022. The said memo also states that a report was submitted by the CDPO, Damcherra ICDS Project to the Director, Social Welfare and Social Education Department, Government of Tripura and the honorarium of all the petitioners was to be stopped from the month of December, 2022 until further orders.

8) However, no subsequent decision was taken as regards the fate of the petitioners and they were deprived of the honorarium, and the engagements of the petitioners, though not specifically cancelled, were kept in limbo.

9) This prompted the petitioners to approach this Court by filing the respective Writ Petitions contending that as per the Rules framed by the State Government, the retiring age of Anganwadi Workers and Helpers was 60 years and so before such date, their engagement also cannot be terminated.

10) Petitioners contend that shifting of an Anganwadi centre from one place to another place merely results in change of location of such centre, but does not change the status of its employees; and that their honorarium cannot also be withheld on that ground as has been done from the month of December, 2022 onwards, because they were not at fault, and they were not being allowed by the State to work in the said Anganwadi centres.



11) The State, however, contended that the Bru Camp wherein the Bru people were rehabilitated got shifted from Khakchang Para Bru camp to Khahamthai Para Bru camp. So there was no further necessity of keeping these Anganwadi centres operational in Khakchang Para. It contended that department had started processing of engagement of Anganwadi Workers and Helpers to newly established Anganwadi centre at Khahamthai Para. The State opposed the prayer of the petitioners for honorarium on the ground that they did not work during the period after December, 2022.

Judgment of the learned Single Judge:

12) After considering the respective contentions of the parties and taking note of the contents of the memorandum dt.28.12.2022 referred to above, learned Single Judge held that withholding of honorarium of the petitioners by delaying the decision making process as regards their fate, is not proper, as no material was produced before him as to what decision was taken on the report of the CDPO.

13) Learned Single Judge also noted that no blame can be attached to any of the petitioners as they were prevented from discharging their duties, but since they did not discharge their duties, they cannot claim full honorarium.

14) He, however, disposed of the Writ Petitions on 24.07.2025 and 10.09.2025 respectively with a direction to the Director, Social Welfare and Social Education (respondent No.4) to take a conscious decision within 15 (fifteen) days of receipt of copy of the judgment on the reports submitted by the CDPO, Damcherra ICDS Project to him. Simultaneously, he also directed both of them to release 50% of the monthly honorarium to all the petitioners



from December, 2022 till the period their honorarium is kept withheld and to make the said payments up to July, 2025 within 4(four) weeks.

15) Challenging the same, the State preferred W.A. No.101 of 2025 and W.A. No.114 of 2025. Petitioners in WP(C) No.550 of 2024 filed W.A. No.16 of 2026.

The contentions of counsel for the State Government:

16) Counsel for the State raised the following contentions in Writ Appeals:

(i) The petitioners had no cause of action and the Writ Petitions should have been dismissed.

(ii) According to him, the learned Single Judge had erred in allowing 50% of the monthly honorarium, though the petitioners had not rendered any service and that this was contrary to established jurisprudence that honorarium is payable only for the period of actual work done;

(iii) According to him, no statutory right of the petitioners was violated and that the learned Single Judge incorrectly applied the doctrine of "Implied Continuity of Service", because there was no mutual conduct indicating continuity of service during the petitioners' non-operational period.

He placed reliance on the engagement orders of the petitioners which mentioned that each candidate selected for the Reang Migrant Camps may work as long as the Reang Migrants stay;



(iv) According to him, there is no necessity existing to continue to engage the services of petitioners because there is no person in the Bru Camps/Anganwadi centres in which they were engaged, after November, 2022 and they had all been shifted to another location of the Bru Camp.

Contentions of petitioners:

17) The counsel for the private parties/Writ Petitioners in W.P.(C) No.518 of 2025 and W.P.(C) No.550 of 2024 out of which these Writ Appeals arise (for short ‘petitioners’) refuted the said contentions and relied on the judgment of this Court in *State of Tripura and others v. Smt Bina Rani Paul and Ors*¹ (*‘Bina Rani Paul’ case*) and the judgment of the Supreme Court in *Maniben Maganbhai Bhariya v. Distt. Development Officer, Dahod*² (for short *‘Maniben’s case’*).

18) They contended that the learned Single Judge, in the impugned judgments erred in giving only limited relief to petitioners and should have directed the State to pay full honorarium and to allow the petitioners to resume their duty as AWHs or AWWs instead of remitting the matter to the State Officials.

19) They contended that mere shifting of Anganwadi centers from Khakchang Para to Khahamthai Para Bru Camp cannot be made an excuse for depriving the petitioners of their entitlement to be in the service till they attain the age of superannuation.

¹ Judgment of DB of the Tripura High Court in W.A.No.83 of 2024 and batch dt.1.4.2026

² (2022) 16 SCC 343



The consideration by the Court:

- 20) The important issues to be considered in this case are:
- (i) What is the nature of engagement of petitioners as AWWs and AWHs?
 - (ii) Whether their employment can be termed 'contingent' at all?
 - (iii) Whether the policy "No work, No pay/wages/Honorarium" adopted by the State is valid?
 - (iv) Whether financial constraints can be pleaded by the State to deny petitioners any relief?
- 21) We shall first consider the nature of engagement of petitioners as AWWs and AWHs.
- 22) In the judgment in *Maniben's* case, the Supreme Court was considering the question whether the AWWs and AWHs engaged in the State of Gujarat were entitled to 'gratuity' under the Payment of Gratuity Act, 1972. It held that they were entitled to the said benefit.
- 23) It relied mainly on the provisions of the National Food Security Act, 2013 and has taken a view that one of the objectives of the said statute was to improve the nutritional status of women and children and the said Act intended to bring about a shift in addressing the issue of food security and altered the previous 'welfare' approach to a 'rights based' approach.
- 24) The Supreme Court also referred to para-7 of the Statement of Objects and Reasons of the said statute and concluded that Anganwadi Centres have been statutorily recognized under the 2013 Act and they had



been entrusted with wide vital and significant role in implementing Sections 4 to 6 of the Act.

25) It recorded that the said provisions lay down entitlements of pregnant women, lactating mothers, and children in the age group of 6 months to 6 years and provided also that children who suffered due to malnutrition are entitled to the benefit of free meals through Anganwadi Centres.

26) The Supreme Court held that these entitlements confer corresponding rights on the said beneficiaries and that the benefits referred to in the said Sections are provided through Anganwadi Centres as set out in the Supplementary Nutrition (Under the Integrated Child Development Services Scheme) Rules, 2017.

27) It held that Anganwadi Centres perform a pivotal role in discharging the statutory obligation of the State to provide nutritional support to pregnant women, lactating mothers, and children in the age group of 6 months to 6 years, that these AWWs and AWHs constitute the backbone of the Anganwadi Centres, and therefore, this onerous responsibility of extending benefits under the National Food Security Act, 2013 to the beneficiaries is on them.

28) It declared:

“24. In view of the provisions of the 2013 Act and Section 11 of the RTE Act, Anganwadi centres also perform statutory duties. Therefore, even AWWs and AWHs perform statutory duties under the said enactments. The Anganwadi centres have, thus, become an extended arm of the Government in view of the enactment of the 2013 Act and the Rules framed by the Government of Gujarat. The Anganwadi centres have been established to give effect to the obligations of the State defined under Article 47 of



the Constitution. It can be safely said that the posts of AWWs and AWHs are statutory posts.”

25. *As far as the State of Gujarat is concerned, the appointments of AWWs and AWHs are governed by the said Rules. In view of the 2013 Act, AWWs and AWHs are no longer a part of any temporary scheme of ICDS. It cannot be said that the employment of AWWs and AWHs has temporary status.*”

29) The Supreme Court in ***Maniben’s*** case had thus held that Anganwadi Centres and Mini Anganwadi Centres are part of the *anganwadi establishment of the State Government*. (see also Para 36 of the judgment in ***Maniben’s*** case).

30) It also held in ***Maniben’s*** case that AWWs and AWHs are ‘employees’ and hold ‘statutory posts’, and also that what is paid to them though called ‘honorarium’, it is in fact a ‘wage’, it is not open to the appellants to again canvass the contrary propositions to deny the private respondents the benefit of ‘gratuity’ under the Payment of Gratuity Act, 1972.

31) The above decision was applied by this Court in ‘***Bina Rani Paul’ case*** where the AWWs and AWHs of State of Tripura made a claim for gratuity under the Payment of Gratuity Act, 1972 and allowed their claims for the said benefit.

32) In ‘***Bina Rani Paul’ case***, this Court had noted that the Government of Tripura had also issued a Notification No.F:1(1-21)-ICDS/SWE/2018/5271(100) dated 17.01.2019 laying down the guidelines for engagement of AWWs and AWHs under the ICDS Scheme in Tripura.

33) These guidelines lay down the selection procedure of AWWs and AWHs in the State of Tripura in the following terms:



“GOVERNMENT OF TRIPURA
SOCIAL WELFARE AND SOCIAL EDUCATION
DEPARTMENT

GUIDELINES FOR ENGAGEMENT OF ANGANWADI
WORKERS (AWWs)/ ANGANWADI HELPERS (AWHs) ON
HONORARY BASIS UNDER UMBRELLA ICDS SCHEME
IMPLEMENTED BY SOCIAL WELFARE & SOCIAL
EDUCATION DEPARTMENT, GOVT. OF TRIPURA.

Selection Procedure:-

1. Advertisement of Vacancies:

- a) *The vacancies of Anganwadi Workers/Anganwadi Helpers shall not be notified through the Employment Exchange.*
- b) *The Child Development Project Officer wil call applications for engagement of Anganwadi Workers/Anganwadi Helpers by formally advertising the vacancies through News Papers.*
- c) *Publicity of vacancies shall also be made through Block Development Officers/ CEO of Urban Local Bodies/ICDS Supervisors/Panchyat Secretaries.*
- d) *Notice of vacancy shall also be notified in writing on the notice board of Block Development Office/Gram Panchayat Office/Ward Office/Child Development Project Office/concerned Anganwadi centers.*
- e) *Procedure for appointment with other relevant details would also be published in the same letter/notice.*

2. Eligibility Criteria:

Only such female married / widow candidates are eligible to apply for the post of Anganwadi Worker/Anganwadi Helper who are:

- a) *Normal residents of the village (in case of Rural Area) /ward (in case of Urban Area) where Anganwadi Centre is located and belongs to the feeder villages/wards of the Anganwadi area.*
- b) *Freezing of the list of families being covered in the feeder area of the AWC will be ensured before starting the selection process and advertising of vacancies with due publicity. Only the residents of the areas as above will be entitled to apply. If the candidates are not available within the feeder area, applications*



can be invited from the desirous candidates residing within the area of the concerned Gram Panchayat/Ward.

c) For Anganwadi Worker minimum qualification shall be Matriculate and for Anganwadi Helper minimum qualification shall be Class -VIII passed.

d) Age between 18-45 years, 5 years relaxation for SC/ ST/ Divyangjan (Differently able) candidates.

3. Application:

a) The desirous candidates will have to apply in prescribed format to the Child Development Project Officer concerned with requisite documents.

b) Receipts will be given to all the applicants by the Office of the CDPO.

c) The applicants will be required to submit the testimonials/ certificates viz address proof, age proof (eligible documents), educational qualification, citizenship, ration card, disability certificate (if applicable), caste certificate (if applicable) along with the application, which will be screened/scrutinized by the Office of the CDPO.

d) After screening / scrutinizing, database of eligible applicants will be prepared by the Office of the CDPO. Ineligible candidates would be informed in writing by the CDPO with proper receipt.

4. Interview Board-cum-Selection Committee:

Walk-interview for selection of candidate Anganwadi Workers and Helpers shall be made by the following Board:-

i. Block Development Officer (in case of Rural area)

Executive Officer of AMC area/NP areas - Chairman

ii. Medical Officer (Block area/AMC area/NP area) - Member

iii. Inspector of School (Block area/AMC area/NP area) - Member

iv. Child Development Project Officer (concerned project) - Member Secretary



The Interview Board cum Selection Committee shall award interview marks and prepare the merit list.

6. Panel of Selected Candidates:

For every selected/engaged candidate, two candidates who are next in merit will be kept in waiting. This waiting list will be valid for 6 months after the selection process is over.

7. Finalization & Declaration of result:

The result will be declared by the Interview Board cum Selection Committee after taking approval from the Social Welfare and Social Education Department, within 3 days of receipt of approval from the department.

8. Offer of Appointment:

On the basis of results, the concerned Child Development Project Officer will issue offer of appointment within 7 days of declaration of results.

9. Appeal against selection:

1st and final appeal by any aggrieved candidate can be made to the concerned District Magistrate & Collector who will decide the same within 15 days from the date of filing appeal.”

- 34) This Court in ***Bina Rani Paul's*** case, noted the above *uniform* procedure laid down by the State for recruitment in all Anganwadi Centres of AWWs and AWHs and held that the selection is being made by a Selection Board consisting of the Block Development Officer (in case of rural area) or Executive Officer of AMC area/NP areas as Chairman, Medical Officer, Inspector of School as the Members, and the Child Development Project Officer as the Member Secretary. It therefore held that each Anganwadi Centre is not a separate and distinct establishment as all of them, function as components under the umbrella ICDS Scheme in Tripura which has now been statutorily recognized under the National Food Security Act, 2013.



35) It also referred to the fact that the State Government had issued the Memorandum dt.15.04.1992 (filed as an exhibit in ***Bina Rani Paul's*** case'), through the Directorate of Social Welfare and Social Education engaging many AWHs for several Anganwadi Centres by a single order; and through another notification dated 01.08.2015 (also filed as an exhibit in ***Bina Rani Paul's*** case'), the Government of Tripura had issued a common order for all AWWs and AWHs with regard to payment of monthly pension/one time financial benefit on their retirement or death treating them as a single class or group.

36) It rejected in the said case, the plea of the State that there are only 2 AWWs or AWHs in each Anganwadi center and so the Act cannot apply to them because it requires 10 persons, and concluded that the Anganwadi Centres and Mini Anganwadi Centres are part of the *anganwadi establishment of the State Government* and it is not open to count their members centre wise and treat them as distinct and separate.

37) It also rejected the argument about the possible financial liability which would be imposed on the State Government if the private respondents in ***Bina Rani Paul's*** case were to be granted gratuity under the Act and held that, if the private respondents are entitled to the same on account of the proper interpretation of the relevant statutory provisions of the Act, such as Section 1(3)(b) thereof by the Supreme Court, the State cannot avoid the same by taking such a plea. They cannot contend that this a matter of policy and the Court should not enter into it.

38) In view of the above settled legal position, after the enactment of the National Food Security Act, 2013 and the above guidelines issued



regarding uniform method of recruitment of AWWs and AWHs, there is no manner of doubt that AWWs and AWHs in the Anganwadi centres hold statutory posts and that the Anganwadi centres are part of the Anganwadi establishment of the State Government. They therefore cannot be termed by the State as 'contingent employees' or 'temporary employees' without any protection of service who can be terminated by the State before they attain the age of superannuation.

39) What is paid to them though called "honorarium", is in fact a "wage" and it is not open to the State Government to treat each Anganwadi centre as a separate and distinct establishment, because all of them functioning in the State are components under the umbrella ICDS Scheme in Tripura, which has now been statutorily recognized under the National Food Security Act, 2013. Therefore, the State cannot contend that their engagement is centre-wise and each centre is distinct and separate.

40) Consequently, the employment of each of the petitioners cannot be termed as "contingent" at all. Questions (i) and (ii) are answered accordingly.

41) Also a Full bench of the Allahabad High Court in *Sheela Devi v. State of U.P.*³ held that the Anganwadi workers, though appointed under a scheme of the government, notwithstanding that they are not holders of civil posts, are entitle to invoke the writ jurisdiction under Article 226 of the Constitution against the order terminating their services passed by the CDPO, a government functionary on grounds permissible for judicial review.

³ 2010 SCC OnLine All 1142 : 2010 Lab IC (NOC 1051) 276 : (2010) 82 ALR 8 : (2010) 4 All LJ 485



42) The Clause in the letters issued to them when they were first engaged as AWWs and AWHs treating them as having been engaged on purely temporary basis and rendering such appointment liable to be cancelled at any time without assigning any reason, cannot, therefore, be accepted as valid after the passing of the National Food Security Act, 2013. Such a clause, when the petitioners and respondents have no equal bargaining power like in this case, has been held arbitrary and contrary to public policy in *Central Inland Water Transport Corpn. v. Brojo Nath Ganguly*⁴ where it was held that such a clause was unconscionable and cannot be enforced. It had held in the said case:

“89. ... The principle deducible from the above discussions on this part of the case is in consonance with right and reason, intended to secure social and economic justice and conforms to the mandate of the great equality clause in Article 14. This principle is that the courts will not enforce and will, when called upon to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power. It is difficult to give an exhaustive list of all bargains of this type. No court can visualize the different situations which can arise in the affairs of men. One can only attempt to give some illustrations. For instance, the above principle will apply where the inequality of bargaining power is the result of the great disparity in the economic strength of the contracting parties. It will apply where the inequality is the result of circumstances, whether of the creation of the parties or not. It will apply to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without them. It will also apply where a

⁴ (1986) 3 SCC 156 : 1986 SCC (L&S) 429, at page 215



man has no choice, or rather no meaningful choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or to accept a set of rules as part of the contract, however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. ..”

43) The other Clause in their engagement letters which states that their selection is for the Reang Migrant Camps and they would work only as long as the Reang Migrants stay and it could not confer any right upon them for appointment in Government Service or engagement in future also cannot be countenanced for the same aforesaid reason after the coming into force of the National Food Security Act, 2013.

44) Once they are statutory employees rendering the duties under the ICDS Scheme framed under the National Food Security Act, 2013, in view of the judgment of the Supreme Court in *Maniben's* case and the judgment of this Court in *Bina Rani Paul's* case, merely because one Bru Camp where they were working, is closed and shifted to another place, their employment cannot be determined on that ground.

45) Also admittedly, the shifting of the Bru Camp to the new place is also under the same Damcherra ICDS Project and instead of employing new persons replacing the petitioners, it was incumbent on the State to re-engage the services of the petitioners at the new place as well.

46) Whatever was the legal status of their appointment before the coming into force of the National Food Security Act, 2013, once the said statute had come into operation in the country and the AWWs and AWHs have secured statutory recognition under that statute, the State Government cannot continue to rely on the terms of their engagement orders and act



arbitrarily and disengage them after they have been engaged for more than 15 to 18 years.

47) This would be patently arbitrary, illegal and violative of Article 14 of the Constitution of India.

48) Admittedly, the State Government itself has framed a Scheme providing for superannuation of AWWs and AWHs on attaining of 60 years of age; and in the absence of any misconduct on their part justifying their disengagement, the State cannot simply disengage them on the pretext of closure of the Anganwadi centres where they were working when they can be re-engaged in the new place as well.

49) The plea of the State that the principle of "No work, no pay" is attracted, is equally not tenable for the reason that it is not the petitioners who voluntarily stopped working, but it was the State which prevented them from work and in such a situation, the above principle has no application.

50) Paying a paltry honorarium as wage to these petitioners for services they would have rendered had they been continued, cannot be said to be imposing grave financial liability on the State, because the State cannot be permitted to take advantage of their own wrong in disengaging their services in an arbitrary manner and then pleading that the petitioners cannot be paid anything after December, 2022.

51) Accordingly, W.A. No.16 of 2026 is allowed; W.A. No.101 of 2025 and W.A. No.114 of 2025 are dismissed and the order of the learned Single Judge in WP(C) No.550 of 2024 and WP(C) No.518 of 2025 is modified as under:



(i) The State shall re-engage the petitioners in Khahamthai Para Bru Camp or any other Anganwadi centre in the ICDS, Damcherra Project within 4(four) weeks;

(ii) The State shall pay full honorarium to the petitioners from December, 2022 till their re-engagement within 8(eight) weeks.

No costs.

52. Pending application(s), if any, also stands disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



Pulak