

GAHC040015682022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Review Pet./13/2022

THE STATE OF AP and Anr.
represented by the commissioner Education, Government of Arunachal Pradesh,
Itanagar. 2: The Director of Higher and Technical Education
Age:
Occupation

VERSUS

Abdul Latif and Anr.
S/o Late Abdul Kaddus, R/o Village Bhowkamari, P/O Kayakuchi, District Barpeta,
Assam. 2: The Arunachal Pradesh Public Server Commission
Age: 0
Occupation

Advocate for the Petitioner : Tagum Jamoh

Advocate for the Respondent : Ajin Apang, Sr. Advocate

BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 05.12.2023

Heard Mr. T. Tagum, learned standing counsel for the Education Department appearing for the review petitioners. Also heard Ms. N. Anju, learned counsel for the respondent no.2.

2. This application for review is directed against the judgment and order

dated 22.07.2022, passed by this Court in WP(C) 291(AP)/2019.

3. The operative part of the order under review is as follows:-

“23. In the result this writ petition succeeds and is hereby allowed. The petitioner is found to the following reliefs:-

(a) The Arunachal Pradesh Public Service Commission represented by its Secretary (respondent no.3) is directed to declare and/or notify the result of the petitioner in respect of his candidature for the post of Assistant Professor (Hindi) against vacancies reserved for being filled up by "Persons with Disabilities (Orthopedically) category [i.e. PwD(O)]. The said exercise shall be carried out as expeditiously as possible, but not later than 30 (thirty) days from the date when a certified copy of this order is served in the office of the respondent no.3; and

(b) Upon declaration and/or notification of result of the petitioner by the respondent no.3, thereby recommending for appointment of the petitioner for the post of Assistant Professor (Hindi), the Commissioner and Secretary to the Govt. of Arunachal Pradesh, Higher Education Department (respondent no.1) is directed to consider the case of the petitioner for appointment in the vacant post of Assistant Professor in Hindi, reserved for being filled up by Persons with Disabilities (Orthopedically) category [i.e. PwD(O)], by ignoring the letter no. HE/CE-58/99 Pt./144 dated 01.03.2018 by the Under Secretary (Education), Govt. of Arunachal Pradesh to the Secretary APPSC (Annexure-II) to the affidavit-in-opposition filed by the respondent no.1; and

(c) It is further provided that the selection and appointment of the petitioner to the post of Assistant Professor (Hindi) shall relate back to the result notification dated 01.08.2019, by which the select list was published by the Arunachal Pradesh Public Service Commission pursuant to employment advertisement dated 31.05.2018. Thus, except for payment of salary and other emoluments, notional benefits and seniority of the petitioner shall be counted from such date.

(d) The aforesaid exercise as indicated in sub-para - (b) and (c) above of notifying the result/ select-list shall be carried out and completed by the respondent no.1 as expeditiously as possible, but not later than 60 days from the date of publication of the selection result by the Arunachal Pradesh Public Service Commission. The petitioner shall also serve a certified copy of this order on the respondent no.1 separately.”

4. The learned counsel for the review petitioners has submitted that pursuant to the order of this Court, in an inter departmental communication, the Joint Secretary-CoE on behalf of Secretary, APPSC had furnished the merit list

for selection and appointment of Assistant Professor of 2019 Batch for Hindi subject and it is projected that in the merit list, which was declared pursuant to the order of this Court, the name of the respondent no.1 appeared at Sl. No. 45 whereas there were two other PwD candidates scoring more marks whose name appeared at Sl. No. 36 and 432 respectively. Accordingly, it is submitted that apprehension is expressed that as there are more meritorious persons than the petitioners, the case of the respondent no.1 could not be considered.

5. It appears that the apprehension expressed by the petitioner is misapplied. This Court had never directed that even if there are persons higher in order of merit than the respondent no.1, they should be excluded.

6. Under such circumstances, the Court is of the considered opinion that the order under review dated 22.07.2022 in WP(C) 291(AP)/2019 would never come in the way of the petitioners to consider the consideration of the petitioners strictly in order of the merit list and pass appropriate order for selection and appointment of Assistant Professor, Hindi, 2019 Batch from amongst candidates short-listed by the APPSC.

7. Accordingly, the Court does not find any merit in this review petition and the same is closed at the initial stage without issuance of notice on the opposite parties.

JUDGE

Comparing Assistant