

GAHC010007582019



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

Case No. : WA/13/2019

DR. JAYANTA PATHAK
S/O LATE DR. GURU MOHAN PATHAK, PROFESSOR, DEPTT. OF CIVIL
ENGINEERING, ASSAM ENGINEERING COLLEGE, JALUKBARI, GUWAHATI
781013

VERSUS

DR. BIPUL TALUKDAR AND 3 ORS
ASSOCIATE PROFESSOR , DEPTT. OF CIVIL ENGINEERING, ASSAM
ENGINEERING COLLEGE, JALUKBARI, GUWAHATI 781013

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
HIGHER EDUCATION (TECHNICAL) DEPTT.
DISPUR
GUWAHATI 781006

3:THE DIRECTOR
TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 781019

4:THE PRINCIPAL
ASSAM ENGINEERING COLLEGE
JALUKBARI
GUWAHATI 78101

Advocate for the Petitioner :

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HON'BLE MR. JUSTICE N. KOTISWAR SINGH
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

05.01.2023

[N. Kotiswar Singh, J.]

Heard Mr. N.J. Gogoi, learned counsel for the appellant. Also heard Mr. N. Nath, learned counsel for the respondent No.1 and Mr. K. Gogoi, learned standing counsel, Higher Education (Technical) Department, Assam.

2. When this matter was taken up, it has been submitted by Mr. K. Gogoi, learned standing counsel, Higher Education (Technical) Department that though the principal respondent No.1 Dr. Bipul Talukdar had challenged the promotion of the appellant Dr. Jayanta Pathak to the post of Professor, during the litigation period, the principal respondent No.1 Dr. Bipul Talukdar has been also promoted to the post of Professor on 03.03.2012.

3. Dr. Jayanta Pathak was recommended for promotion to the post of Professor vide order dated 21.07.2010 which was subsequently confirmed by the Government of Assam on 29.02.2012 with effect from the date of joining i.e. 11.01.2011. Though the said appointment was the subject matter of challenge, because of interim orders passed by this Court, he has continued to remain Professor uninterruptedly till date.

4. The aforesaid factual position has not been disputed by either of the parties. Thus, what we find is that both the contesting parties have been serving as Professors w.e.f. 2011 and 2012, respectively. More than a decade has elapsed. Though certain issues have been raised as to the legality of the recommendation made by the Selection Committee by the principal respondent Dr. Bipul Talukdar, considering the fact that they have been serving as

Professors for more than a decade, Dr. Bipul Talukdar has fairly submitted that he does not wish to pursue this matter.

5. This Court appreciates the stand taken by Dr. Bipul Talukdar which will lead to the closure of this proceeding which has been going on for a long period. As a consequence, since Dr. Bipul Talukdar has opted not to pursue the challenge to the recommendation/promotion of Dr. Jayanta Pathak, his appointment as a Professor, will stand affirmed, without any encumbrance.

6. Accordingly, in view of the above submissions made, the present writ appeal can be closed.

7. In the result, for the reasons discussed above, we set aside the impugned order passed by the learned Single Judge on 26.11.2018 in WP(C) No.4672/2010 by affirming the selection and subsequent order passed by the Government appointing Dr. Jayanta Pathak as the Professor, however, the legal issues which have been raised in this appeal being not decided on merit, are kept open, to be decided in any appropriate proceeding as and when raised.

Sd/- Arun Dev Choudhury
JUDGE

Sd/- N. Kotiswar Singh
JUDGE

Comparing Assistant