

GAHC010015952023



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

Case No. : WP(C)/600/2023

FARIDA KHANAM AKANDA
W/O- MD. SAFIUR RAHMAN, R/O- VILL- SHALKATI PATHER, P.O-
SHALKATI PATHER, P.S- DHING, PIN- 782126

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT OF ASSAM, EDUCATION DEPTT,
DISPUR, GHY- 06

2:DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19

3:DISTRICT LEVEL SELECTION COMMITTEE
NAGAON
ASSAM

4:INSPECTOR OF SCHOOL
NAGAON DISTRICT CIRCLE
DIST- NAGAON
ASSAM
PIN- 78200

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

10-03-2023

Heard Mr. H. Das, learned counsel for the petitioner and Mr. D. Saikia, learned Advocate General, Assam assisted by Mr. S.M.T. Chistie, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 4.

The Director of Secondary Education, Assam on 28.12.2022 issued an advertisement for filling up of 7500 Nos. of vacant posts of Assistant Teachers in Arts, Science, Hindi and Sanskrit in different provincialised Secondary Schools of the concerned Districts of Assam.

Though the petitioner have the requisite eligibility for consideration for the post of Hindi Teacher in such provincialised Secondary Schools of the State, but she has crossed the upper age limit to apply for any Government sanctioned post.

By filing an additional affidavit, the petitioner has placed before the Court that on 12.01.2023, she filed an application before the Secretary to the Government of Assam in the Department of School Education to condone her upper age limit, enabling her to apply for the post of Hindi Teacher that was advertised on 28.12.2022 and that the said application of the petitioner for condoning her upper age limit is yet to be considered by the said authority.

Mr. Das, learned counsel for the petitioner placed before the Court that the State Government vide Notification No. AAP.34/50/27 dated 03.05.1951 pertaining to General rules for relaxation of age limits provided that "*In pursuance of the provisions of Article 309 of the Constitution of India, the Governor of Assam is pleased to make the following general rules regarding relaxation of the age limit for recruitment to civil services or civil posts in connection with the affairs of the State of Assam-*

(1) Notwithstanding anything to the contrary in rules regulating the maximum or minimum age of recruitment to a service of post in connection with the affairs of the State of Assam, the age limit may be relaxed in favour of any candidate or class or candidates only if (i) in cases in which the appointing authority is the Governor, or (ii) in other cases, the Head of the Department, considers this necessary in the interest of fair dealing or in the public interest.

(2) In this rule "Head of Department" means the authority who is declared to be the Head of the Department for the purpose of the Fundamental Rules and of the Subsidiary and Supplementary Rules made by the State Government, and includes a District and Sessions Judge.

(3) In case in which recruitment is made through the Public Service Commission, the Commission shall be consulted before the rule is relaxed."

Considering the above, the Secretary to the Government of Assam in the Department of School Education, respondent No. 1 is directed to dispose of the said representation of the petitioner within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order along with a copy of her said representation dated 12.01.2023 to be submitted by her on or before 20.03.2023 by a reasoned order deciding the issue of condonation of the upper age limit of the petitioner in accordance with law and following the provisions of said Notification dated 03.05.1951, noted above intimating the petitioner about the outcome of her said representation.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant