

GAHC010018962023



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

Case No. : WP(C)/519/2023

MINTU DAS
S/O- LATE LAKSHYA DAS, R/O- MADHYAMKHANDA, NORTH GUWAHATI,
DIST- KAMRUP (M), ASSAM, PIN- 781031

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HIGHER EDUCATION DEPTT, DISPUR, GUWAHATI- 781006

2:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
GUWAHATI- 781019

3:THE PRINCIPAL CUM SECRETARY TO THE SELECTION COMMITTEE FOR
GRADE IV
NORTH GUWAHATI COLLEGE
COLLEGE NAGAR
DIST- KAMRUP
PIN- 781031

4:HIRAKJYOTI DEKA
SELECTED CANDIDATE FOR THE POST OF GRADE IV AGAINST
UNRESERVED CATEGORY
C/O- OFFICE OF THE PRINCIPAL
NORTH GUWAHATI COLLEGE NAGAR
GUWAHATI- 781031

5:AMANDEEP SINGH
SELECTED CANDIDATE FOR THE POST OF GRADE IV AGAINST
UNRESERVED CATEGORY
C/O- OFFICE OF THE PRINCIPAL

NORTH GUWAHATI COLLEGE
COLLEGE NAGAR
GUWAHATI- 78103

Advocate for the Petitioner : MR. A CHAMUAH

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

02-02-2023

Heard Mr. N. Sarma, learned counsel for the petitioner and Mr. A.R. Tahbildar, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1 & 2.

It is stated that the petitioner who passed Class-VIII is a resident of Rajaduar under North Guwahati Police Station looking for his avenue for appointment. As such, he submitted an application on 06.08.2016 before the concerned authority of North Gauhati College, District-Kamrup.

After considering the application of the petitioner dated 06.08.2016, the Principal of said North Gauhati College on 26.08.2016 temporarily appointed him as a Night Chowkidar in the said college w.e.f. 01.09.2016 with a lump sum amount of Rs. 5000/- per month for a period of three months until further order which was extended by order dated 30.11.2016.

By order under reference No. NGC/Misc.33/2020/25-27 dated 06.02.2020, the Principal of North Gauhati College allowed the petitioner to work as a Bearer of Botany Department w.e.f. 06.02.2020.

It is stated by the petitioner that he attended the duties of Semester Examination in the said college from time to time as has been allotted to him.

The Principal-cum-Secretary of North Gauhati College on 27.08.2022 issued an advertisement that includes seven Nos. of posts of Grade-IV, out of which, two reserved for Scheduled Tribes (Plain); one reserved for Scheduled Tribes (Hills); one reserved for OBC/MOBC; one reserved for Economically

Weaker Section under Un-reserved category and two posts for unreserved category.

Being eligible, the petitioner applied for the post of Grade-IV as advertised on 27.08.2022 and accordingly, the Principal-cum-Secretary of said College issued an admit card along with call letter to him for the written examination, scheduled on 26.12.2022 in the 1st half of the day i.e., 10:00 am to 11:30 am for total marks 60 and also for personal interview on the same date at 12:00 noon. Accordingly, the petitioner appeared in the said written examination as well as personal interview with Roll No. UR-040 (Un-reserved).

The Principal-cum-Secretary of said College on 30.12.2022 declared the result of the examination as well as interview dated 26.12.2022 for the post of Grade-IV of said North Gauhati College and against the Un-reserved category, the respondent Nos. 4 & 5 were selected for the posts of Grade-IV whereas the petitioner did not get his selection.

Thereafter, the petitioner approached the said authority of North Gauhati College to know the reasons for not selecting him in the interview held on 26.12.2022 pursuant to the advertisement dated 27.08.2022 and he was informed that the selection committee found that he had submitted false certificate along with his application. As such, his candidature had been rejected.

Being aggrieved with such action on the part of the respondents in the North Gauhati College in not selecting him for the post of Grade-IV in said college on the ground of submission of false certificate along with his application, inspite of serving in that said college since 01.09.2016 for more than 6 years, the petitioner has preferred this writ petition.

It is contended by the petitioner that only after verification of his testimonials and other documents, the College authority issued him call letter along with the admit card with Roll No. UR-040 to appear in the written test as well as in the interview scheduled on 26.02.2022, therefore, the selection committee can not reject his candidature merely on the ground of filing false certificate.

The petitioner has prayed for a direction to the respondents herein not to act upon the select list dated 30.12.2022 notified by the authority of said North Gauhati College pertaining to the selection to the post of Grade-IV against un-reserved category and to re-examine the selection giving marks and weightage of experience to him so as to adjust his service against the sanctioned post of Grade-IV in the said college in terms of the advertisement dated 27.08.2022, noted above. He has also prayed to allow him to serve in the said college till his adjustment to the post of Grade-IV in it.

The Assam College Employees (Provincialisation) Rules, 2010 formulated under the provisions of Section 12 (1) of the Assam College Employees (Provincialisation) Act, 2005 having statutory force, provides for "Method of Recruitment" in provincialised colleges of the State.

The respondent North Gauhati College is a provincialised College of the State. As such, it comes under the provisions of said 2005 Act as well as the 2010 Rules.

In respect of Grade-III and Grade-IV posts, Rule 5 (2) of the said 2010 Rules provides that – *"the list of candidates shall be collected from the local employment exchange/Advertisement in newspaper"*.

Rule 5 (5) of the said 2010 Rules provides that " *the Post of Lower Division Assistant, Laboratory Assistant, Library Assistant shall be filled up by direct recruitment and from Laboratory Bearers/Library Bearers/Grade-IV having qualification as prescribed in the ratio of 75:25."*

Rule 5(7) of the said 2010 Rules provides that " *the Governing Body shall conduct the selection process and recommend to the Director, who shall issue orders of appointment."*

Rule 7 of the said 2010 Rules relates to "Direct Recruitment" that stipulates as follows:-

"(a) All appointment either by direct recruitment or by promotion shall be made by the Director on the basis of recommendations of the Governing Body based on the recommendations of the Selection Committee/Departmental Promotion Committee duly constituted;

(b) The Director shall communicate his orders within thirty days;

(c) The Selection Committee may hold such test of interview for all posts as may be considered necessary. For posts for which UGC has prescribed norms, no candidate shall be recruited without having the required norms;

(d) All fresh appointments shall be made on receipt of police verification report.

The posts of Grade-IV in a provincialised college is required to be filled up by direct recruitment as per the relevant Rules 5 and 7 of said 2010 Rules, noted above.

The Director of Higher Education is the concerned appointing authority to the post of Grade-IV in provincialised colleges of the State in terms of Rule 5 and Rule 7 of said 2010 Rules.

Till such appointment order is issued by the DHE, Assam either in favour of the respondent Nos. 4 & 5 or others, this Court is of the view that the petition preferred by the petitioner is prematured as he can submit an appropriate application before the Director of Higher Education,

Assam for redressal of his grievances that during the selection for the post of Grade IV as advertised on 27.08.2022, the authority of North Gauhati College did not follow the relevant constitutional provisions including the selection process.

Considering the above, this writ petition being prematured, stands rejected.

The petitioner is at liberty to approach the Director of Higher Education, Assam for redressal of his grievances regarding the alleged selection process pertaining to the post of Grade-IV in North Gauhati College, District-Kamrup under unreserved category in terms of the advertisement dated 27.08.2022 issued by the Principal-cum-Secretary of North Gauhati College.

JUDGE

Comparing Assistant