

GAHC010023092016



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

Case No. : WP(C)/4937/2016

MRS. JULEE DUTTA
D/O MR. MONESWAR DUTTA W/O DR. TARUN GOGOI R/O N.B. PATH, JYOTI
NAGAR, GOLAGHAT, P.O. and P.S. GOLAGHAT, DIST. GOLAGHAT, ASSAM
PIN - 785621.

VERSUS

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

2:THE JOINT SECRETARY TO THE
GOVT. OF ASSAM
HIGHER DEPARTMENT
DISPUR
GUWAHATI - 781006.

3:THE DIRECTOR

HIGHER EDUCATION DEPARTMENT
ASSAM
KAHILIPARA
GUWAHATI - 781019.

4:THE UNIVERSITY GRANTS COMMISSION

REP. BY ITS SECRETARY
BAHADUR SHAH JAFAR MARG
NEW DELHI
PIN -110002.

5:GOLAGHAT COMMERCE COLLEGE

REP. BY ITS PRINCIPAL SECRETARY

P.O. GOLAGHAT
DIST. GOLAGHAT
PIN - 785621

Advocate for the Petitioner : MR.U CHOUDHURY

Advocate for the Respondent : SC, HIGHER EDUCATION

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

O R D E R

09.05.2023

Heard Mr. S.D. Purakayastha, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned standing counsel for the Higher Education Department, respondent nos.1 to 3 and Mr. A. Chamuah, learned standing counsel for the UGC, respondent no.4. None appears on call for the respondent no.5.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the Govt. Memo No. AHE.211/2015/104 dated 07.06.2016 as well as letter issued by the Director of Higher Education, Assam vide Memo No. G(B)Misc.117/2015/22 dated 08.06.2016, by which awarding of oral marks in the selection process for the post of Assistant Professor was abolished.

3. The case of the petitioner is that except for the Ph.D. Degree, the petitioner is otherwise qualified to be appointed as Assistant Professor in the provincialized colleges of Assam. It is projected that the petitioner has MA Degree in Economics and also obtained M.Phil Degree from Periyar University in the year 2008 and has also cleared the State Eligibility Test (SET for short) as

well as the National Eligibility Test (NET for short). The petitioner was appointed as a contractual teaching faculty in Golaghat Commerce College since 02.08.2010. The learned counsel for the petitioner has submitted that prior to the advertisement published in the newspapers on 28.05.2016, the selection process of Assistant Professor in provincialized colleges in Assam envisaged award of 20 marks for interview. It is submitted that as the petitioner does not have a Ph.D. Degree, he would suffer prejudice if 20 marks, otherwise allocated for oral interview was taken away, because it would allow the persons having Ph.D. Degree to have an advantage over the petitioner. It is submitted that the abolition of marks in the oral interview is contrary to the UGC Guidelines.

4. In the said context, the learned standing counsel for the Higher Education Department has produced the copy of OM issued from time to time by the Higher Education Department regarding selection of Lecturer/Assistant Professor in provincialized colleges in Assam and it is submitted that the guidelines prevailing currently is in terms of the OM No. AHE.239/2021/68 dated 24.01.2022, which prescribes the guidelines for selection of Assistant Professor/Librarian in provincialized Govt. and Govt. Model Colleges of Assam, whereby the Govt. has adopted the eligibility qualification prescribed under Clause 3.0.0, 4.0.0, 4.4.0, 4.4.1 of the UGC Regulations dated 30.06.2010 and as per the said OM, the marks for interaction with selection committee (interview) is now reduced to 3 marks only.

5. In view of the said submissions, the Court is of the considered opinion that the challenge made in this writ petition has become infructuous because of the fact that the memo dated 07.06.2016 and 08.06.2016, which are being challenged is now replaced by the hereinbefore referred OM dated 24.01.2022, which is now holding the field.

6. Moreover, on a specific Court query, the learned standing

counsel for the Higher Education Department has submitted that the posts for which advertisement was issued on 28.05.2016 in respect of Golaghat Commerce College has already been filled up. However, this fact is disputed by the learned counsel for the petitioner.

7. Under such altered circumstances, if the petitioner has a claim and/or has an occasion to apply for any post of Lecturer/Assistant Professor, the petitioner would be now covered by the conditions imposed by OM dated 24.01.2022.

8. Therefore, in view of the altered conditions, which has been brought into existence by the OM dated 24.01.2022, it would naturally mean that the conditions contained in the memo dated 07.06.2016 and 08.06.2016, assailed in this writ petition has been overridden by the OM dated 24.01.2022, which is now in force.

9. Therefore, while holding that the challenge made in this writ petition has become infructuous, it is made clear that in the event the petitioner is still aggrieved by the OM dated 24.01.2022, he may take appropriate steps as he may be so advised.

10. Accordingly, this writ petition stands closed.

JUDGE

Comparing Assistant