

GAHC010024602016



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

Case No. : WP(C)/5414/2016

SMTI. TILA MAYA SONARY
D/O- SRI LAL BAHADUR SONARY, R/O VILL. and P.O.- DIHIRA, P.S.-
BARBARI, DIST.- BAKSA, BTAD, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
EDUCATION DEPTT., DISPUR, GHY- 6, DIST.- KAMRUP M, ASSAM.

2:THE SECRETARY
BTC
KOKRAJHAR
BTAD
ASSAM
PIN- 781374.

3:THE DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
BTAD
ASSAM
PIN- 781374.

4:THE DIST. ELEMENTARY EDUCATION OFFICER
MUSHALPUR
DIST.- BAKSA
BTAD
ASSAM
PIN- 781372.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

MUSHALPUR
DIST.- BAKSA
BTAD
ASSAM
PIN- 781372.

6:THE DIST. ELEMENTARY EDUCATION OFFICER
NALBARI
DIST.- NALBARI
ASSAM.

7:THE DY. INSPECTOR OF SCHOOLS
NALBARI
DIST.- NALBARI
ASSAM

Advocate for the Petitioner : MR A N AHMED

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03.03.2023

Heard Mr. A N Ahmed, learned counsel for the petitioner and Mr. P N Sarma, learned Standing counsel, Department of School Education for the respondent Nos. 1, 6 & 7. Also heard Ms. R B Borah, learned Standing counsel, BTC for the respondent Nos. 2 to 5.

2. It is submitted by the petitioner that the Deputy Inspector (DI) of Schools, Nalbari vide order under Memo No. Apptt-1/99/1466-72 dated 04.12.1999 appointed her as Stipendiary Mistress against the converted post sanctioned by the Government on 16.11.1991 and posted her at Bijuli Sonapur Lower Primary School under the Sub-Inspector of Schools, Mushalpur Circle, District-Baksa.

3. By an order dated 19.01.2009, the Director of Education, BTC terminated her service with immediate effect finding her appointment doubtful and as she could not fulfill the terms and conditions, like (a) the Advertisement issued by the DEEO, D.I. of Schools of Nalbari inviting application as a candidates to fill up the posts in the schools in the BTC

area, (b) Approval of the State Level Empowered Committee of the Personal Department of Government of Assam to fill up the posts, (c) the records of holding interview and preparation of score sheets by the interview board, (d) list of selected candidates indicating vacancies of the schools to fill up the selected candidates and (e) Approval of erstwhile Bodoland Autonomous Council for the appointment.

4. Petitioner submitted that the cases of similarly placed teachers have been considered by the Hon'ble Division Bench of this Court by common order dated 06.02.2015 passed in Writ Appeal No. 182/2013 (*Gobinda Barman and 4 Ors. -Vs- the State of Assam and 6 Ors.*) and other connected cases.

5. It is also submitted by the petitioner that following the order of the Hon'ble Division Bench of this Court passed in Writ Appeal No. 182/2013 and other connected cases, a Coordinate Bench of this Court have allowed the cases of the petitioners serving as Assistant Teachers in BTC areas, whose services were terminated like the petitioner.

6. To that extent, the petitioner has annexed copy of the orders of this Court passed in WP(C) No. 1910/2015 as well as WP(C) No. 1014/2014, disposed of on 06.04.2015 and 21.05.2015 respectively.

7. Ms. Borah, Standing counsel, BTC on instruction submitted that since 2009, the petitioner is no longer in service nor she is rendering any service in the said school after her such termination.

8. From the orders passed by the Court, annexed by the petitioner it is seen that that those orders have been passed in the cases of Assistant Teachers serving in the BTC areas.

9. But in the case in hand, the petitioner claimed that she was appointed as Stipendiary Mistress.

10. The provisions of Assam Elementary Education (Provincialisation) Act, 1974 and the Assam Elementary Education (Provincialisation) Rules, 1977, does not provide for any such post of Stipendiary Mistress in any provincialised schools of the State.

11. The petitioner has also not annexed copy of her appointment order issued by the Deputy Inspector of Schools, Nalbari, except a photocopy of her Service Book having signatures of the Sub-Inspector of Schools, Mushalpur Circle dated 12.05 and the Block

Elementary Education Officer, Baksa, Mushalpur dated 28.05 without specifying the relevant year of those signatures in the service book.

12. Since the petitioner has failed to establish her case regarding her appointment as Stipendiary Mistress and there is no such post of Stipendiary Mistress under the provisions of said 1977 Rules, noted above and since the cases covered by the order of the Hon'ble Division Bench dated 06.02.2015 passed in Writ Appeal No. 182/2013 and other connected cases relates to only Assistant Teachers, as such, this writ petition being devoid of any merit, stands dismissed.

JUDGE

Comparing Assistant