

GAHC010028092023



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

Case No. : WP(C)/815/2023

NURUL HUDA LASKAR
S/O- ANCHAR ALI LASKAR,
VILL- DALIDHAR,
P.O- JANKIR BAZAR,
P.S- PANCHGRAM,
DIST- HAILAKANDI, PIN-788801

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, DEPARTMENT OF ELEMENTARY EDUCATION
ASSAM, DISPUR, GHY-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST- HAILAKANDI
ASSAM

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
HAILAKANDI BLOCK
DIST- HAILAKANDI
ASSAM

5:THE HEAD MASTER

429 NO. BANDUKMARA L.P SCHOOL

DIST- HAILAKANDI

6:NURUL HUDA LASKAR
S/O- MAKTAR UDDIN LASKAR

VILL- BANDUKMARA P.O- RATANPUR

DIST- HAILAKANDI
PIN-78815

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 07.12.2023

Heard Mr. M. J. Quadir, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Elementary Education Department, Government of Assam, appearing on behalf of the State Respondents. However, none appears on behalf of respondent No. 6 despite service of notice.

The petitioner was appointed as a stipendiary teacher at 429 No. Bandukmara L.P. School on 01.04.1995 in terms of the order of appointment dated 31.03.1995. The petitioner claims that though he had completed the Junior Basic Training Course in 2004 but he was not given the regular time pay scale and had continued as a stipendiary teacher. The petitioner in the meantime, continued to perform his duty in the said school with the legitimate expectation that his service will be regularized in due course of time. Eventually,

in the month of September, 2022, after downloading his appointment letter, dated 23.09.2022, from the official website of the Elementary Education Department, Government of Assam, when he tried to submit his joining letter to the Head Teacher of 429 No. Bandukmara L.P. School on 26.09.2022, the same was not accepted by the authority on account of the fact that one Nurul Huda Laskar, respondent No. 6, herein, has already joined on 24.09.2022, in terms of the said order, dated 23.09.2022.

The petitioner claims that the respondent No. 6 was a stipendiary teacher of Banglabil L.P. School as per his appointment order dated 10.07.1994. The matter was stated to have been brought to the notice of the Head Teacher of the said school, Deputy Inspector of Schools and District Elementary Education Officer, Haliakandi, but nothing had materialized so far. The petitioner further claims that he was accommodated as a Tutor of the said school(Annexure 7 to the writ petition) in recognition of his long years of service as a stipendiary teacher in the same school.

The action of the respondent authorities in allowing the respondent No. 6 to work as Tutor of 429 No. Bandukmara L.P. School, is assailed in the present proceeding.

Mr. Quadir, learned counsel appearing on behalf of the petitioner, makes a submission in the line of the facts above-stated and prays that he being the actual beneficiary of the order, dated 23.09.2022; he be allowed to join in the School, in question.

I have heard the learned counsels appearing for the parties.

It is a case wherein, two persons having same names rely on an order of

accommodation, dated 23.09.2022, and while the respondent No. 6 had joined in pursuance thereof, the same is disputed by the petitioner who claims to be the actual “Nurul Huda Laskar” entitled to the benefits flowing from the order, dated 23.09.2022.

Faced with the said situation and in the absence of any clarificatory affidavit from the State Respondents, this Court is left with no alternative but to require the Director, Elementary Education Department, Government of Assam, to examine the issue on the basis of the available records and thereafter, identify the actual beneficiary of the accommodation order, dated 23.09.2022(Annexure-5 to the writ petition).

On such identification being made; the actual beneficiary be given all requisite service benefits with effect from the date of issuance of the said order, dated 23.09.2022. Till the aforesaid exercise is completed and orders passed thereon, neither the petitioner nor the respondent No. 6 would be eligible to any salaries.

The Director, Elementary Education Department, Government of Assam, shall complete the entire exercise and pass appropriate speaking order thereon within a period of 3 months from the date of receipt of a certified copy of this order.

The parties are at liberty to furnish a certified copy of this order to the District Elementary Education Officer, Government of Assam, Hailakandi.

Needless to say that before passing any order in the matter; both the petitioner and the respondent No. 6 along with the concerned officials involved in the matter including the District Elementary Education Officer, Government of Assam, Hailakandi, shall be given a due hearing.

JUDGE

Comparing Assistant