

GAHC010037052023



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

Case No. : WP(C)/2006/2023

UDAY KUMAR DAS AND 5 ORS
S/O LATE YOURAUGA DAS, R/O WARD NO. 11, BAHADURTARY, DHUBRI,
P.O.-DHUBRI, DIST-DHUBRI, ASSAM, PIN-783334

2: SAHIDUR RAHMAN
S/O LATE SAHAR ALI
VILL AND P.O.-DATARPUR
DIST-DHUBRI
ASSAM
PIN-783334

3: ABDUL HUSSAIN SARKAR
S/O LATE UMAR ALI SARKAR
VILL-KAIMARI PART VII
DIST-DHUBRI
ASSAM

4: SAKIM UDDIN PRAMANIK
S/O SHOHID ALI PRAMANIK
VILL-NAYERALGA PT IV
P.O.-NAYER ALGA
DIST-DHUBRI
ASSAM
PIN-783348

5: MD KHAYBAR ALI
S/O LATE GHOWA SHEIKH
VILL AND P.O.-BORKAUDA
DIST-DHUBRI
ASSAM
PIN-783348

6: TARANI KANTA ROY
S/O LATE JOTINDRA ROY

VILL-ROUMARI CHAPAR
P.O.-CHAPAR
DIST-DHUBRI
ASSAM
PIN-783371

7: BINAY ROY
R/O RAMRAYKUTI
DIST-DHUBRI
ASSAM
PIN-78337

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, EDUCATION
(SECONDARY), GUWAHATI, DISPUR-06

2:THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI-19
ASSAM

3:THE FINANCE DEPARTMENT
REPRESENTED BY COMMISSIONER AND SECRETARY

4:THE DEPUTY COMMISSIONER
DHUBRI DISTRICT CIRCLE
DHUBRI
ASSAM
PIN-783348

5:THE INSPECTOR OF SCHOOLS
DHUBRI DISTRICT CIRCLE
DHUBRI
ASSAM
PIN-78337

Advocate for the Petitioner : MR B P BORAH

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 18.12.2023

Heard Mr. B.P. Borah, learned counsel for the petitioners and Mr. B. Kaushik, learned counsel for the respondent Nos. 1, 2 and 5, being the authorities in the Secondary Education Department. Also heard Mr. B. Gogoi, learned counsel for the respondent No. 3, being the Finance Department and Ms. D.D. Barman, learned Addl. Senior Government Advocate for the respondent No. 4, being the Deputy Commissioner, Dhubri.

2. The petitioners who are presently working as Grade-IV employees in different provincialised higher secondary schools in the Dhubri district have instituted the present proceeding challenging the Office Memorandum dated 28.09.2021 to the extent that the said Office Memorandum for the purpose of eligibility of a Grade-IV employee for promotion to the Grade-III post of Junior Assistant, requires the Grade-IV employee to be a graduate.

3. The issue as arising in the present proceeding also arose for consideration in writ petition being WP(C) No. 3283/2022 (Ashutosh Das Vs. the State of Assam and Others) and other analogous matters and this Court vide order dated 24.06.2022 was pleased to dispose of the said writ petitions holding that till making of provisions in the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 in respect of promotional avenues for Class-IV employees in provincialised secondary schools of the State to the Class-III post of Junior Assistant in such schools, the Office Memorandum No. ASE.631/2019/112 dated 28.09.2021 shall remain suspended.

4. The Hon'ble Court also required the State respondents to do the needful

with the provisions of Assam Secondary Education (Provincialised Schools) Service Rules, 2018, so as to comply with the directions of the Hon'ble Division Bench in the common judgment and order dated 11.09.2019 passed in WP(C) No. 997/2016 and other connected cases. The orders and directions as contained in the order dated 24.06.2022 passed in WP(C) No. 3283/2022 and analogous matters squarely cover the issue arising in the present proceeding and accordingly the following direction is passed:

Till making such provisions in the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 in respect of promotional avenues of Class-IV employees of provincialised Secondary Schools of the State to the Class-III post of Junior Assistant in such schools, as directed by the Hon'ble Division Bench on 11.09.2019 in the common judgment and order passed in WP(C) No. 997/2016 and other connected cases, noted above, the impugned Office Memorandum No. ASE. 631/2019/112 dated 28.09.2021 of the State Government in the Secondary Education Department shall remain suspended and/or shall not be given effect.

5. With the above directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant