

GAHC010056522023



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

Case No. : WP(C)/1486/2023

MANUJ KUMAR KAIRI
S/O RAMAKANTA KAIRI, SUB INSPECTOR OF SCHOOL, UNDER DI OF
SCHOOLS, SILCHAR CUM I/C BEE0, KATIGORAH, (PROMOTED TO THE
POST OF BEE0) R/O 1ST LINK ROAD, LANE NO. 12, P.O. AND P.S.-SILCHAR,
DIST-CACHAR, ASSAM, PIN-788006

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY EDUCATION
DEPARTMENT), DISPUR, GUWAHATI, ASSAM, PIN-781006

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

17/03/2023

Heard Mr. B Purkayastha, learned counsel for the petitioner and Mr. B Kaushik, learned Standing counsel, Department of School (Elementary) Education for the sole respondent.

By Notification No. eCF No. 256222/39 dated 15.12.2022 of the State Government in the Department of School Education, the petitioner, Sub-Inspector of Schools was promoted to the post of Block Elementary Education Officer (BEEO) on the recommendation of the Departmental Promotion Committee held on 09.12.2022 in the scale of pay of Rs.22000/- – Rs.87,000/- with Grade Pay of Rs.9700/- plus other allowances as admissible under Regulation 4 (d) of the APSC (Limitation of Functions) Regulations, 1951 in the revision of Pay Band-3 for a period of one year w.e.f. the date of taking over charge and posted at Gobardhana Education Block, District-Baksa.

In another writ petition, i.e., WP(C) No. 8382/2022, the Court observed that the Districts of Kokrajhar, Chirang, Baksa, Tamulpur, Udalguri being within the Bodoland Territorial Council within the 6th Schedule area maintains a separate Directorate for Education and the said Directorate prepares and maintains Gradation List for promotion of Sub-Inspector of Schools in the cadre of Block Elementary Education Officer. As such, the respondent in the Elementary Education Department could not have posted the petitioner within the BTC area on his promotion to the BEEO from Sub-Inspector of Schools.

Petitioner submitted that presently he is serving in Katigora Education Block as Sub-Inspector of Schools in the District of Cachar and there are vacant posts of BEEO's in Sonai Education Block and Rajabazar Education Block of District-Cachar and therefore, the respondent authority should be directed to consider his case for his posting in such vacancies out of the BTC area modifying his place of posting in terms of the Notification dated 15.12.2022.

In that regard, the petitioner has already filed a representation before the Secretary, Govt. of Assam in the Department of School Education on 19.12.2022 that was received by the said authority vide No. 3977 dated 26.12.2022 and also reminder by post was issued on 25.02.2023.

After hearing the learned counsels for the parties and considering the entire aspects of the

matter, the Secretary to the Govt. of Assam in the Department of School Education after considering the fact that it is only the BTC authority, who can make such posting within the BTC areas as education is a transfer subject of the BTC shall dispose of the said representation of the petitioner within a period of 1 (one) month from the date of receipt of a certified copy of this order, to be furnished by the petitioner, intimating him about the outcome of the said representation.

It is also pointed out herein that the Court by order dated 22.12.2022 passed in WP(C) No. 8382/2022 suspended the appointment of the petitioner as the Block Elementary Education Officer that was issued by the State Government in the Elementary Education Department posting him in the BTC area.

Petitioner shall submit a certified copy of this order along with a copy of this writ petition including the Annexure appended thereto and also a copy of his said representation dated 19.12.2022 before the Secretary to the Govt. of Assam in the Department of School Education on or before 30.03.2023, obtaining necessary acknowledgment from the said authority in that regard.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant