

GAHC010057572021



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

Case No. : WP(C)/2241/2021

AYUB KHAN AND ANR

S/O- ALA BAKSH KHAN, VILL- SOUTH BHURAKATA, P.O. RADHA MADHAB
HAT, P.S. MANKACHAR, DIST.- SOUTH SALMARA MANKACHAR (ASSAM),
PIN- 783131

2: MOHAZZAL HOQUE

S/O- MOHAMMAD ALI

VILL- BORBILA

P.O. KALAPANI

P.S. MANKACHAR

DIST.- SOUTH SALMARA MANKACHAR (ASSAM)

PIN- 78313

VERSUS

THE STATE OF ASSAM AND 4 ORS

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GHY-6

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM

KAHILIPARA

GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DHUBRI

P.O. AND DIST.- DHUBRI

ASSAM

PIN- 783301

4:THE DY. INSPECTOR OF SCHOOLS

SOUTH SALMARA MANKACHAR

P.O. HATSINGIMARI

DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
SOUTH SALMARA MANKACHAR
P.O. HATSINGIMARI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM PIN- 78313

Advocate for the Petitioner : MR R ISLAM
Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06.12.2023

Heard Mr. R. Islam, learned counsel for the petitioners. Also heard Mr. P. K. Borah, learned standing counsel, Elementary Education Department, Government of Assam, appearing on behalf of all the respondents.

The petitioners in the present proceeding, were appointed as Stipendiary Teachers against the deputation vacancies of Cluster Resource Centre Coordinator(CRCC) vide order, dated 30.01.1996. They claim to have rendered services for a period of 10 years and thereafter, they were released from their services w.e.f. 15.06.2006 vide order of even date and they are thereafter not in service in any school.

The petitioners contend that the Government of Assam had formulated a policy for the category of teachers like the petitioners and had provincialized services of such persons similarly situated like the petitioners on a pick-and-choose basis and in this connection, refers to Annexure-6 order, dated 30.01.2021, pertaining to one Shri Sohidur Rahman Sarkar who the petitioners claim to be similarly situated with them.

The present proceeding has been instituted alleging discrimination and a prayer has been made that the petitioners' cases be also considered in the line of the consideration made in the case of Shri Sohidur Rahman Sarkar.

I have heard the learned counsels appearing for the parties and perused the materials made available on record.

The petitioners have themselves admitted that they have never held any substantive vacant post and they have only been working against deputation vacancies and their services were extended from time to time and eventually they were released from their services on 15.06.2006.

The petitioners do not have any substantive right to claim for an appointment in-as-much as after 15.06.2006, they are not in employment and their earlier employment was only in the nature of a stop-gap arrangement. No right being found in the petitioners' claim for being considered for appointment against any regular sanctioned post; I am of the considered view that this writ petition is not maintainable and accordingly, the writ petition stands dismissed.

However, considering the submissions made by Mr. Islam, learned counsel appearing on behalf of the petitioners, that the Government has formulated a policy for the category of teachers like the petitioners and in support of having referred to Shri Sohidur Rahman Sarkar who was provincialized vide order, dated 30.01.2021, it is hereby provided that the dismissal of this writ petition would not be a bar for the Government to consider the cases of the petitioners in the event there is a policy framed by the Government for such category of teachers and persons have been considered thereunder.

The petitioners for the said purpose, may approach the authorities by way of filing appropriate applications which would be given due consideration strictly under the policy said to be in place and stated to have been followed in the case of Shri Sohidur Rahman Sarkar vide order, dated 30.01.2021.

JUDGE

Comparing Assistant