

GAHC010062672021



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

Case No. : WP(C)/2429/2021

FOKOR UDDIN ALI AHMED
S/O- LT. ABDUR RAHMAN, VILL- TUKRAPARA, P.O. TUKRAPARA, P.S.
CHHAYGAON, DIST.- KAMRUP, ASSAM, PIN- 781137

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GHY-6

2:THE STATE LEVEL SCRUTINY COMMITTEE
REP. BY THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

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

4:THE DISTRICT SCRUTINY COMMITTEE FOR ELEMENTARY EDUCATION
REP. BY ITS CHAIRMAN CUM DY. COMMISSIONER OF KAMRUP DISTRICT
ASSAM
PIN- 781031

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KAMRUP
AMINGAON
DIST.- KAMRUP
ASSAM
PIN- 781031

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781031

7:THE HEADMASTER CUM SECRETARY OF TUKRAPARA M.E MADRASSA
VILL AND P.O. TUKRAPARA
P.S. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 781137

8:ABDUL HAKIM
TUTOR OF PASCHIM TUKRAPARA L.P.SCHOOL
C/O- HEAD MASTER OF PASCHIM TUKRAPARA L.P. SCHOOL
VILL AND P.O. TUKRAPARA
P.S. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN- 78113

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

27.01.2023

Heard Mr. M. Ali, learned counsel for the petitioner and Mr. G. Pegu, learned counsel appearing for the Elementary Education Department. None appears for the respondent Nos. 7 & 8.

[2.] Having regard to the nature of grievance projected by the petitioner, the matter is taken up for disposal at this stage. The grievance expressed by the

petitioner is that despite being the Senior Language Teacher of Tukrapara M.E Madrassa, the District Level Scrutiny Committee has recommended provincialisation of respondent No. 8, which was thereafter accepted by the State Level Scrutiny Committee. The petitioner contends that his date of joining service is 03.02.1990 while the date of joining by the respondent No.8 is 03.03.1994. The petitioner clearly being senior to the respondent No. 8, the respondent authorities could not have provincialised the service of the respondent No. 8 vide the impugned order dated 05.02.2021 (Annexure-16). As such, he is before this Court.

[3.] Section 14 of the Assam Education (Provincialisation of Services of Teachers and Re-Organisation Educational Institutes) Act, 2017 provides that the State Level Scrutiny Committee shall be the appellate authority against any recommendation of the District Level Scrutiny Committee and the State Government in the Administrative Department shall be the appellate authority against any recommendation of the State Level Scrutiny Committee. The petitioner in the present case is aggrieved with the recommendation made by the District Level Scrutiny Committee, which was thereafter accepted by the State Level Scrutiny Committee.

[4.] In terms of the provision, an appeal lies before the State Government in the concerned Administrative Department. Accordingly, the writ petition is disposed of with a direction to the petitioner to submit his representation before the Secretary to the Govt. of Assam, Elementary Education Department within a period of 1 (one) month from today. The Secretary upon receipt of the appeal shall consider and disposed of the representation by way of a speaking order,

which shall be communicated to the petitioner. The petitioner shall also submit a copy of the writ petition before the Secretary along with a certified copy of this order. The exercise as directed herein above shall be completed by the Secretary as expeditiously as possible, preferably within a period of 1 (one) month from the date of receipt of the appeal. Till disposal of such appeal, the provincialisation benefit shall not be given to the respondent No. 8 in terms of the order dated 05.04.2021.

JUDGE

Comparing Assistant