

GAHC010071632021



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

Case No. : WP(C)/3904/2021

ARJUN DAS AND ANR
S/O- LT. KARTIK CH. DAS, R/O- VILL- NO.3 SIMEN CHAPORI, P.O. AND P.S.
SIMEN CHAPORI UNDER JONAI SUB-DIVISION,- DHEMAJI, SCIENCE
TEACHER OF SOMKNG HIGH SCHOOL, ASSAM, PIN- 787061

2: MESAI DOLEY
S/O- LT. MOTON DOLEY
R/O- VILL- SOMKONG
P.O. SIMEN CHAPORI UNDER JONAI SUB-DIVISION
DIST. - DHEMAJI
ARTS TEACHER OF SOMKNG HIGH SCHOOL
ASSAM
PIN- 78706

VERSUS

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

2:THE DY. SECRETARY TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.

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

4:THE JOINT DIRECTOR
SECONDARY EDUCATION ASSAM
KAHILIPARA
GHY-19

5:THE DISTRCT SCRUTINY COMMITTEE FOR SECONDARY EDUCATION
REP. THROUGH ITS CHAIRMAN

THE DY. COMMISSIONER
DHEMAJI DISTRICT
ASSAM
PIN- 787057

6:THE INSPECTOR OF SCHOOLS
DHEMAJI DISTRICT CIRCLE
DIST.- DHEMAJI
ASSAM
PIN- 787057

7:THE HEADMASTER
SMONKONG HIGH SCHOOL
P.O. SIMENCHAPORI (JONAI)
DIST.- DHEMAJI
ASSAM
PIN- 78706

Advocate for the Petitioner : MRS A BUJARBARUAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

02.05.2023

Heard Ms. A Bujarbaruah, learned counsel for the petitioners and Mr. B Koushik, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 4. Also heard Mr. G Bokalia, learned Government Advocate, Assam for the respondent No. 5.

2. Petitioner No. 1 submitted that the District Scrutiny Committee (Secondary), District-Dhemaji recommended his name for provincialisation of his service under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 as amended in 2018 to the 3rd post of Assistant Teacher with General Mathematics and Additional Mathematics considering the students enrolled in Somkong High School, Simen Chapori, District-Dhemaji that was already provincialised w.e.f. 01.01.2013 pursuant to the order of the Director of Secondary Education, Assam under No.

PC/Sec/121/2013/10 dated 12.08.2013, wherein the petitioner No. 1 was left out from provincialisation.

3. It is submitted by the petitioner No. 1 that though his name was recommended by the concerned District Scrutiny Committee (Secondary), District-Dhubri but his name was not uploaded as an eligible teacher for provincialisation as an Assistant Teacher of said Somkong High School, District-Dhemaji in the website of the Directorate of Secondary Education, Assam.

4. It is submitted at the bar that during pendency of this writ petition, the petitioner No. 2 expired.

5. Being aggrieved, the petitioner No. 1 has preferred this writ petition.

6. Section 14 of said 2017 Act provides for Appellate Authority which reads as follows-

“Appellate Authority:-

The State Level Scrutiny Committee shall be the appellate authority against any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the Appellate Authority against any recommendation of the State Level Scrutiny Committee.”

7. The Hon’ble Supreme Court in the case of *Commissioner of Income Tax and Another - Vs- Chhabil Dass Agarwal* reported in (2014) 1 SCC 603 have held that “*when a statutory forum is created by law for redressal of grievances, writ petition should not be entertained ignoring said statutory provision*”.

8. After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of directing the petitioner No. 1 to submit a statutory appeal before the Secretary to the Government of Assam in the Department of School (Secondary) Education on or before 19.05.2023 as provided under Section 14 of said 2017 Act as amended, along with a certified copy of this order and a copy of this writ petition including the Annexures appended thereto as well as all the relevant documents and testimonials regarding his appointment order etc. that are self attested, obtaining necessary acknowledgment from the said authority in that regard.

9. In the event of filing such statutory appeal by the petitioner No. 1 as directed above,

within the time so specified, the Secretary to the Government of Assam in the Department of School (Secondary) Education on verification of the relevant records shall dispose of the said statutory appeal of the petitioner No. 1 with a reasoned order within a period of 90 (ninety) days in accordance with law, after giving an opportunity of hearing to the petitioner No. 1, intimating him about the outcome of his said appeal.

10. It is also made clear that if in such process, while considering the appeal, the petitioner No. 1 is found to be eligible for provincialisation in terms of the provisions of said 2017 Act, noted above, the respondent authorities in the Secondary Education Department shall provincialise his service and other service benefits as per his entitlement, provincialising his service under the said 2017 Act as amended.

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

JUDGE

Comparing Assistant