

GAHC010055252021



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

Linked Case : **I.A.(Civil)/905/2023**
In WP(C) No. 7626/2022

MUNINDRA KUMAR DAS

S/O SRI DANPATI DAS
R/O FATASIL
GANESHPARA
GUWAHATI-781025
KAMRUP(METRO)
ASSAM

VERSUS

JIMPI BORAH
W/O SRI ANKUR SAIKIA R/O SANKARDEV PATH NEAR K G NURSING HOME
JAIL ROAD DIST. JORHAT ASSAM PIN-785001

2:THE STATE OF ASSAM

REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION ELEMENTARY DEPTT. DISPUR GUWAHATI
PIN-781006

3:THE DIRECTOR

STATE COUNCIL OF EDUCATION RESEARCH
SCERT
KAHILIPARA
GUWAHATI-781019

4:THE JOINT DIRECTOR

STATE COUNCIL OF EDUCATION RESEARCH
JORHAT CAMPUS
JORHAT
ASSAM

PIN-785001

Advocate for : MR. K N CHOUDHURY

Advocate for : MR. U K NAIR appearing for JIMPI BORAH

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**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

02-06-2023

Heard Shri R. M. Deka, learned counsel for the applicant. Also heard Shri U. K. Nair, learned Senior Counsel assisted by Shri T. Chakraborty, learned counsel for the opposite party/writ petitioner; Shri G. Pegu, learned Standing Counsel, Elementary Education Department; and Shri S. Bora, learned Standing Counsel, SCERT.

While IA (C) No. 906/2023 has been filed for impleading the applicant as party respondent No. 4, IA(C) No. 905/2023 has been filed for modification/vacation/alteration of the interim order dated 30.11.2022.

The challenge in the connected writ petition is with regard to the final Gradation list of Statistical Assistant of the DIET, SCERT, HQ Establishment and SCERT, Jorhat under the Directorate of SCERT, Assam.

The case of the applicant, who has sought impleadment as well as vacation of the interim order is that though his name appears in the final Gradation list of Statistical Assistant, in the meantime, he has been promoted to the post of Research Assistant under the Centrally Sponsored Scheme vide an order dated 24.02.2021 which was much prior to the interim order dated 30.11.2022. Shri Deka, the learned counsel submits that because of the interim order, there is an apprehension of being deprived of his service benefit, in spite of the fact that his position in the final Gradation list was already acted upon and therefore he has prayed for clarification in the aforesaid order.

Shri Nair, the learned Senior Counsel for the petitioner submits that the issue involved is a serious one, which would require determination by the Court. He, however, fairly submits that he would not object to the extent that any service benefits which would accrue to the applicant by virtue of serving as a Research Assistant under the Centrally Sponsored Scheme may not be effected by this order.

Shri S. Bora, the learned Standing Counsel, SCERT submits that necessary clarifications may be issued in the interest of justice.

Under the aforesaid facts and circumstances, this Court is of the opinion that instead of passing order of impleadment of the applicant in the concerned writ petition, interest of justice would be served if an order is passed clarifying the interim order dated 30.11.2022 which has been done in presence of the parties.

In view of the above, it is clarified that the interim order dated 30.11.2022 passed in the writ petition shall not affect the service benefits which may accrue to the applicant, who is discharging his service as a Research Assistant under the Centrally Sponsored Scheme.

Both the interlocutory applications are accordingly disposed of.

JUDGE

Comparing Assistant