

GAHC010122492023



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

Case No. : WP(C)/3269/2023

TANU SHYAM KURMI
S/O- LALU KURMI, R/O- CHAMOGURI KACHARI GAON, F.V.JOKAI, JOKAI
DIBRUGARH, DIST.- DIBRUGARH (ASSAM), PIN- 786003

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, SCHOOL EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GHY-6

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

3:THE DISTRICT LEVEL SCRUTINY COMMITTEE
DIBRUGARH REP. BY ITS CHAIRMAN-CUM-DEPUTY COMMISSIONER
DIBRUGARH DISTRICT
DIBRUGARH P.O. AND DIST.- DIBRUGARH ASSAM
PIN- 786001

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DIBRUGARH
P.O. AND DIST.- DIBRUGARH ASSAM
PIN- 786001

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
BORBORUAH
P.O. BORBORUAH
DIST.- DIBRUGARH
ASSAM
PIN- 78600

Advocate for the Petitioner : MR R ISLAM

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 09.06.2023

Heard Mr. R.Islam, learned counsel for the petitioner. Also heard Ms. N.Phukan, learned standing counsel, Elementary Education appears for the respondent Nos. 1, 2, 4 and 5 and Mr. P. Saikia, learned Govt. Advocate appears for the respondent No.3.

2. The petitioner was initially appointed as Assistant Teacher of Jokai Pelonia Mazdoor L.P. School by an appointment letter issued by the Managing Committee Jokai Pelonia Mazdoor L.P. School dated 23.06.2010. The petitioner joined to the said post on 24.06.2010.

3. The School of the petitioner along with the teaching and non-teaching staff was considered for provincialisation under the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011. The District Level Committee considered the case of the petitioner and recommended his case for provincialisation. However, while recommending his case, his date of joining in the school was recorded as 24.06.2011.

4. The State Level Scrutiny Committee thereafter considered the case of the petitioner and rejected his case on the ground that his date of appointment was

after 01.01.2011. This is evident from the order dated 14th May, 2013, issued by the Director of Elementary Education, Assam.

5. Thereafter, the District Elementary Education, Officer, Dibrugarh by a communication dated 24.07.2015 wrote to the Director of Elementary Education with regard to the correction of date of joining of the petitioner as Assistant Teacher of Jokai Pelonia Mazdoor L.P. School indicating that he had actually joined on 24.06.2010 and not on 24.06.2011 as recorded by the District Level Scrutiny Committee. Consequently, the Director of Elementary Education by a communication dated 20th August, 2015 wrote to the Commissioner & Secondary to the Govt. of Assam with regard to the correction of the date of joining of the petitioner as Assistant Teacher indicating that he had joined on 24.06.2010 and not on 24.06.2011.

6. Thereafter, the Joint Secretary to the Govt. of Assam, Elementary Education Department wrote a letter dated 06th October, 2015, addressed to the Deputy Commissioner, Dibrugarh to hold an enquiry with regard to the actual date of joining of the petitioner as Assistant Teacher of Jokai Pelonia Mazdoor L.P. School. In reply, the Additional Deputy Commissioner (Education) Dibrugarh submitted his report by communication dated 07th of November, 2015 addressed to the Joint Secretary to the Govt. of Assam, Elementary Education Department stating that after ascertaining all the records found in the school register, the date of joining of the petitioner in the Jokai Pelonia Mazdoor L.P. School was 24.06.2010 at 9.30 am.

7. Despite the report being submitted, no steps were taken for considering the case of the petitioner for provincialisation of the service and therefore, petitioner having no other option made a representation dated 10.11.2022, addressed to the Director, Elementary Education, Assam praying for provincialisation of service as Assistant Teacher of Jokai Pelonia Mazdoor L.P. School. The said representation is still pending before the Director of Elementary Education/respondent No.2.

8. At this stage, learned counsel for the petitioner submits that the petitioner may be permitted to file a fresh representation before the respondent No.2.

9. Accordingly, the writ petition is disposed of directing the petitioner to file a fresh representation before the respondent No.2 by annexing a copy of this writ petition along with the annexures appended thereto within a period of 10(ten) days from today. Thereafter, the respondent No.2 on receipt of the representation shall consider and dispose of the same by a speaking order and in accordance with law within a period of 2(two) months from the date of receipt of the representation.

10. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant