

GAHC010131212018



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

Case No. : WP(C)/4046/2018

LAKHIMAI BORAH
WIFE OF SRI PRADIP DHINGIA, RESIDENT OF WARD NO. 2, RAM NAGAR,
DHEMAJI TOWN, P.O. AND P.S. DHEMAJI, IN THE DISTRICT OF DHEMAJI,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF
ELEMENTARY EDUCATION, DISPUR, GUWAHATI- 781006, ASSAM.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHEMAJI
ASSAM.

4:THE DEPUTY INSPECTOR OF SCHOOLS
DHEMAJI.

5:NIRMAL KONWAR
SR. ASSISTANT
DISTRICT ELEMENTARY EDUCATION OFFICE
DEEO
DHEMAJI
DIST. DHEMAJI
ASSAM
PIN- 787057

6:SRI KUSHAL KUMAR NEOG
JR. ASSISTANT
O/O THE DEEO
DHEMAJI.

7:SRI ANTARAM PANGING
JR. ASSISTANT
O/O THE BEEO
MURKONG SELEK

Advocate for the Petitioner : MR U S BORGOHAIN

Advocate for the Respondent : SC. EDU.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.03.2023

Heard Mr. U.S. Borgohain, learned counsel for the petitioner. None appears on call for the Elementary Education Department. No affidavit-in-opposition has been filed by the Elementary Education Department, respondent nos. 1 to 4 in this petition.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for quashing of the order dated 19.05.2018 passed by the Director of Elementary Education Department (respondent no.2) by which the respondent nos. 5 to 7 were promoted to the post of Senior Assistant.

3. Referring to the gradation list of Junior Assistants in the office of DEEO/DIS/BEEO's under Dhemaji district, the petitioner projects that she has joined as Junior Assistant on 14.10.1989, but she received regular scale of pay

on and from 03.03.2003. The learned counsel for the petitioner has submitted that the respondent no.5, namely, Nirmal Konwar, who was appointed as Junior Assistant on 27.11.1994, got the regular scale of pay from the same date and that the respondent no.6, namely, Kushal Kumar Neog, who was appointed as Junior Assistant on 24.11.1994 also got the regular scale of pay from the same date. Moreover, insofar as the respondent no.7, namely, Antaram Pangeng is concerned, he was appointed as Junior Assistant on 12.01.1998 and on the same date, he also got the regular scale of pay.

4. Therefore, considering the date on and from which the regular scale of pay was drawn by the petitioner, the respondent nos. 5 to 7 are all senior to the petitioner.

5. The learned counsel for the petitioner has prayed for some more time to file affidavit-in-reply against the affidavit-in-opposition filed by the respondent no.6. However, the Court does not find any reason to grant such opportunity on the ground that even by filing an affidavit-in-reply in the matter, the facts cannot be altered. No provisions of any act, rules or notification has been referred to show that merely because the appointment of the petitioner was in the year 1989, she would not be entitled to claim seniority position above the private respondents. There is no act or notification on record to show that seniority can be claimed on the basis of date of appointment and not from the date of joining regular scale of pay.

6. Under such circumstances, this Court does not find any merit in this writ petition and therefore, not only the prayer for filing affidavit-in-reply is refused, but the writ petition stands dismissed.

There shall be no order as cost.

JUDGE

Comparing Assistant