

GAHC010174712023



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

Case No. : WP(C)/4577/2023

MOMOTAJ BEGUM
WIFE OF LATE JASMAT ALI,
RESIDENT OF BOGULAMARI,
P.O.- BILASPUR,
DISTRICT- BONGAIGAON, ASSAM,
PIN- 783372.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
(ELEMENTARY) EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON
DISTRICT- BONGAIGAON
ASSAM.

4:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN
DISTRICT LEVEL COMMITTEE
BONGAIGAON DISTRICT
BONGAIGAON
ASSAM.

5:THE STATE LEVEL COMMITTEE

REPRESENTED BY ITS CHAIRMAN-CUM-CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM

DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 25.08.2023

Heard Ms. K.Devi, learned counsel for the petitioner. Also heard Mr. G.Pegu, learned standing counsel, Elementary Education Department for the respondent Nos. 1, 2 and 3 and Mr. G.Pegu, learned Govt. Advocate for the respondent Nos. 4 and 5.

2. The husband of the petitioner Late Jasmat Ali, while serving as Head Teacher in Bilashpur L.P.School in the district of Bongaigaon, died in harness on 30.08.2012. Thereafter, the petitioner made her application for appointment on compassionate grounds in the prescribed format on 04.12.2012. The case of the petitioner was considered by the District Level Committee in its meeting held on 24.06.2014 and recommended the case of the petitioner for appointment to the post of Office Peon against the vacancy of 2013. Thereafter, the State Level Committee in its meeting held on 25.06.2015 considered the case of the petitioner, however, the same was deferred for want of clarification regarding vacancy position which was to be ascertained by the Deputy Commissioner

concerned/DEE. The relevant portion is extracted herein below:

“There were four nos. of recommended candidates and SLC selected both the candidates for appointment for the post of Grade-IV as mentioned below:

I. Sri Golapi Das,

II. Sri Arup Kr. Barman

III. Sri Momotas begum

IV. Sri Anurup Roy

But, the SLC deferred the selection of Grade-IV staff under Bongaigaon District for want of clarification regarding vacancy position to be ascertained by DC concerned/DEE.”

3. The Deputy Commissioner, Bongaigaon by communication dated 27.02.2018 and addressed to the Joint Secretary to the Govt. Of Assam, Elementary Education Department provided the vacancy position of Grade-IV post in the Office of the DEEO, Bongaigaon for the year 2012-2014. However, despite the vacancy position being clarified by the Deputy Commissioner, Bongaigaon, nothing proceeded further and therefore, petitioner is before this Court.

4. A perusal of the minutes of the SLC meeting dated 25.06.2015 would indicate that the SLC had approved the recommendation made by the concerned DLC in favour of the petitioner, however, final decision was not taken inasmuch as clarification regarding the vacancy position was to be ascertained

by the concerned Deputy Commissioner. Thereafter, by a communication dated 27.02.2018, Deputy Commissioner, Bongaigaon clarified the vacancy position for the year 2012-2014. It is to be noted that the concerned District Level Committee after making an assessment with regard to the vacancy position of Grade-IV post for the year 2012, recommended the case of the petitioner for appointment as Office Peon.

5. In that view of the matter, this Court is of the considered opinion that as recommendation of the petitioner by the concerned SLC was not given due to requirement of clarification for the vacancy position and as the Deputy Commissioner had already clarified the vacancy position by the letter dated 27.02.2018, a direction is issued to the Director of Elementary Education Department, Assam to issue appointment order in favour of the petitioner against the vacancy of Grade-IV in the year 2012 as already recommended by the District Level Committee as well as clarified by the Deputy Commissioner, Bongaigaon in the communication dated 27.02.2018.

Let such appointment order be issued within a period of 2(two) months from the date of receipt of a certified true copy of the order of this Court.

6. With the aforesaid observations and directions, this writ petition is allowed.

JUDGE

Comparing Assistant