

GAHC010180722020



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

Case No. : WP(C)/5426/2020

AKHERUL ISLAM SARKAR
S/O ABDUL KHALEQUE SARKAR,
VILLAGE BHIMAPARA PO HATSINGMARI, DIST SOUTH SALMARA
MANKACHAR ASSAM 783135

VERSUS

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

2:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
ASSAM
GUWAHATI 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHURBI

DHUBRI
ASSAM 783301

4:THE DEPUTY INSPECTOR OF SCHOOLS.
SOUTH SALMARA MANKACHAR
DIST SOUTH SALMARA MANKACHAR
ASSAM 783135

5:ABDUL LATIF BHUYAN
SUB INSPECTOR OF SCHOOL CUM I/C BLOCK ELEMENTARY EDUCATION
OFFICER (BEEO) SOUTH SALMARA

DIST SOUTH SALMARA
MANKACHAR ASSAM 78313

Advocate for the Petitioner : MR. S B LASKAR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

15/02/2023

Heard Mr. S B Laskar, learned counsel for the petitioner. Also heard Mr. B Kaushik, learned Standing counsel, Department of School (Elementary) Education for the respondent Nos. 1 to 4 and Mr. J Abedin, learned counsel for the respondent No. 5.

Both petitioner and respondent No. 5 were appointed as Sub-Inspectors of Schools by the Director of Elementary Education, Assam vide order dated 30.07.2015.

In the gradation list of Sub-Inspector of Schools in the general area under the Director of Elementary Education, Assam issued on 10.06.2020, name of the petitioner is reflected at serial No. 143 and that of the respondent No. 5 at serial No. 161.

Petitioner stated that he is a resident of South Salmara Mankachar and as he is senior to the respondent No. 5 in service, he should be allowed to hold the charge of Block Elementary Education Officer (BEEO) of South Salmara.

Hence, the petitioner has filed this writ petition on 08.12.2020 for a direction to the respondent authorities, particularly the State Government in the Elementary Education Department to appoint him as In-charge BEEO of South Salmara Education Block under the jurisdiction of DEEO, Dhubri following the said gradation list of the Director of Elementary Education, Assam issued vide order dated 10.06.2020.

From the annexures appended to WP(C) No. 1671/2020 preferred by the respondent No. 5, disposed of today, i.e., on 15.02.2023, it is seen that one Sri Debashish Singha, Sub-Inspector of

Schools, South Salmara and in-charge BEEO of South Salmara was transferred and posted under the Deputy Inspector of Schools, Goalpara by an order dated 03.07.2018 issued by the Directorate of Elementary Education, Assam. On release of said Debashish Singha from the office of the BEEO, South Salmara, the concerned DEEO, Dhubri by his order dated 04.07.2018 allowed the respondent No. 5, Sub-Inspector of Schools, South Salmara to be the In-charge BEEO of South Salmara and on the basis of the said order dated 04.07.2018 of the DEEO, Dhubri as well as the order dated 07.08.2018 passed in WP(C) No. 4569/2018 (Abdul Latif Bhuyan Vs. State of Assam and 5 Ors.), said respondent No. 5 is serving as the In-charge BEEO of South Salmara under the jurisdiction of the DEEO, Dhubri that too only on in-charge basis but not on regular basis.

From the communication under No. EHA-90/2020/113 dated 05.03.2022 of the Director of Elementary Education, Assam, it is seen that the petitioner, Sub-Inspector of Schools while holding the charge of In-charge BEEO, Mankachar, an enquiry was conducted through the DEEO, Dhubri and on the basis of such report, the petitioner was transferred to Tinsukia District under the Deputy Inspector of Schools, Tinsukia in April, 2018. Thereafter, the respondent No. 5, Sub-Inspector of Schools/Deputy Inspector of Schools, South Salmara was allowed to hold the charge of In-charge BEEO, South Salmara along with the financial power in addition to his normal duties vide Government Notification No. AEE.04/2012/Pt.14 dated 03.08.2018 and on the basis of the same, the respondent No. 5 is holding the charge of BEEO, South Salmara.

The said communication dated 05.03.2022 further reveals that pursuant to the Government letter No. AEE.210/2017/97 dated 28.06.2019, the petitioner was transferred back to Dhubri District from the District of Tinsukia by an order of the Director of Elementary Education, Assam dated 02.07.2019.

During the deliberation of the matter, Mr. B Kaushik, learned Standing counsel, Department of School (Elementary) Education stated that in the meanwhile, the final gradation list of Sub-Inspector of Schools serving in the Elementary Education Department of the State has been published by the Director of Elementary Education, Assam under No. EHA(B).124/27/572 dated 30.06.2020, wherein petitioner is senior to the respondent No. 5.

For the administrative purpose, the respondent authorities allowed the respondent No. 5 to hold the charge of BEEO, South Salmara Block, but not on the basis of any seniority and the employer concerned is the competent authority regarding any such placement of eligible officer to the post concerned on in-charge basis.

In the case in hand, it is the respondent in the Elementary Education Department is the competent authority regarding placement of the Block Elementary Education Officer in the South Salmara Education Block.

Considering the above, the Court is of the view that no such direction can be issued to the respondent authorities in the Elementary Education Department for appointment of the petitioner as in-charge BEEO of South Salmara Education Block though he is a resident of South Salmara and is senior to the respondent No. 5 in the gradation list of Sub-Inspector of Schools in the general area in the Elementary Education Department of the State in exercise of the power under Article 226 of the Constitution of India.

Accordingly, the prayer of the petitioner to that extent stands rejected.

However, the petitioner may approach the appropriate authority in the Elementary Education Department for redressal of his grievances.

Copy of the communication dated 05.03.2022 of the Director of Elementary Education, Assam be kept as a part of the record.

JUDGE

Comparing Assistant