

GAHC010191652018



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

Case No. : WP(C)/5943/2018

PRANAB KUMAR KALITA
S/O SRI PARAMA KALITA
VILL- DILINGA, P.O. SINGRA
P.S. BOKO
DIST. KAMRUP (R), ASSAM, PIN - 781135.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY, GOVT. OF ASSAM,
HIGHER EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-06, DIST. KAMRUP (M), ASSAM.

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM

HIGHER EDUCATION DEPARTMENT

DISPUR
GUWAHATI-06
DIST. KAMRUP (M)
ASSAM

3:THE DIRECTOR OF HIGHER EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19
DIST. KAMRUP (M)
ASSAM

4:THE DEPUTY COMMISSIONER

DIST. GOALPARA
PIN- 783121.

5:THE DEPUTY COMMISSIONER

DIST. DARRANG
PIN - 784125.

6:THE DEPUTY COMMISSIONER

DIST. BONGAIGAON
PIN - 783380.

7:THE DEPUTY COMMISSIONER

DIST. BISWANATH
PIN - 784176

Advocate for the Petitioner : MR. B SARMAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.03.2023

Heard Mr. S. Barman, learned counsel for the petitioner and Mr. K. Gogoi, learned standing counsel for the Higher Education Department.

2. The petitioner claims that he is eligible to be appointed in the post of Assistant Professor in Assamese Department. The petitioner submitted his candidature for 4(four) colleges i.e. Pandit Deendayal Upadhyaya Adarsha Mahavidyalaya, Amjonga (Goalpara), Dalgaon (Darrang), Tulungia (Bongaigaon) and Bihali (Biswanath) (PDUAM for short).

3. The petitioner projects that he has participated and fared well in the selection process and that in the selection process the other successful candidates have been favoured, depriving the petitioner of selection and appointment. It is projected that the respondent authority are under process of publishing a fresh advertisement to fill up the remaining post of Assistant Professor in Assamese in the said four colleges. The learned counsel for the petitioner has referred to the score obtained by the various candidates and by referring to one particular candidate, it is submitted that the methodology of calculating CGPA score into percentage is prescribed by the Gauhati University and the formula to be used for Arts, Law, and Fine Arts in respect of CGPA up to 9.5 would be $(5 \times \text{CGPA}) + 20$: for CGPA above 9.5 it would be $(65 \times \text{CGPA}) - 550$: for a first class, minimum CGPA will be 8: for second class, minimum CGPA will be 5.

4. Accordingly, it is submitted that the particular candidate, whose name has been withheld in this order, would have been 61.90, but the said candidate was awarded 67.28. Accordingly, it is submitted that there were mistakes in calculating the score awarded to various candidates. Accordingly, this writ petition has been under Article 226 of the Constitution of India with a prayer that the respondent authorities be directed to appoint the petitioner as Assistant Professor in Assamese Department of PDUAM.

5. The learned standing counsel for the Higher Education Department has made his submissions to justify the non-selection of the petitioner.

6. In this case, the learned standing counsel for the Higher Education Department has demonstrated from the affidavit-in-opposition filed by respondent no.3 that the post of Professor for Assamese Department in the

concerned colleges were distributed as follows, viz., for PDUAM, Tulungia, one post was for unreserved category and the other post was for SC and two candidates under the said categories were appointed and out of the remaining three candidates for the said post, one unreserved category candidate was not selected. In respect of PDUAM Behali, there were two unreserved post and one post was reserved for OBC out of which one unreserved category candidate has joined and the other two selected candidates under unreserved and OBC category did not join. However, they were given alternative choices to join PDUAM, Dalgaon and PDUAM, Amjonga.

7. In respect of PDUAM, Dalgaon, the post was for two unreserved and one OBC category where one unreserved category candidate was appointed and another candidate who was otherwise OBC was selected as unreserved category and third candidate was selected as OBC category. In respect of PDUAM, Amjonga, there were three unreserved posts and two post reserved for OBC category out of which one unreserved candidate, who did not join was given a choice to join at PDUAM, Behali and other unreserved category candidate was appointed and the said candidate had joined. The other OBC category who did not join was given a choice to join at PDUAM, Dalgaon. Insofar as the candidates whose score is alleged to have been wrongly provided, was a candidate for PDUAM, Amjonga, who was selected but not appointed due to shortage of students' enrollment in the subject and one OBC category candidate was selected and appointed.

8. Therefore, it is noted that in respect of unreserved category, the candidate who was selected and appointed has scored above the petitioner. The petitioner had scored 66.23 in unreserved category whereas the two persons in

unreserved category who were offered appointment had scored 70.24 and 67.67 respectively.

9. We also take note of the submission made by the learned standing counsel for the Higher Education Department that as the appointments could not be made within the validity of the select list, which is one year, the authorities have decided to initiate a fresh selection process.

10. It is also noted that although the petitioner has filed this writ petition for a direction to appoint him in the post of Assistant Professor in Assamese Department, but the petitioner has no vested right to be appointed and the respondent authorities have a right not to fill up the posts because in this case they have demonstrated that one post could not be filled up due to less number of students' enrollment.

11. In this regard, one may refer to the decision of the Supreme Court of India in the case of *Employee State Insurance Corpn. & Anr. Vs. Dr. Vinay Kumar & Ors.*, 2022 LiveLaw (SC) 514 where it is held that the a candidate who has applied does not have a legal right to insist that the recruitment process set in motion should be carried to its logical end. Under such circumstances, the Court does not find any merit in this writ petition and therefore, this writ petition stands dismissed. There shall be no order as to cost.

12. It may be noted that an interim order was passed on 10.09.2018 to keep one post in general category in PDUAM, Amjonga vacant, which was effective till the next returnable date. The said interim order was extended by order dated 03.10.2018 till the next returnable date. The said order was again extended by order dated 28.01.2020 passed in I.A.(C)61/2020. The said interim

order stands vacated.

JUDGE

Comparing Assistant