

GAHC010200772018



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

Case No. : WA/195/2019

1. THE STATE OF ASSAM,
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM,
EDUCATION (HIGHER) DEPARTMENT, DISPUR, GUWAHATI- 6.

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

.....**Writ Appellants**

-Versus-

1. DR. AMALENDU NAG,
S/O- LATE SURENDRA KUMAR NAG,
R/O- MODEL TOWNSHIP, WARD NO. 3,
P.O. AND DIST.- HAILAKANDI, ASSAM, PIN- 788151.

2:THE GOVERNING BODY OF SRIKISHAN SARDA COLLEGE,
HAILAKANDI, REP. BY ITS PRINCIPAL I/C CUM MEMBER SECRETARY
P.O. AND DIST.- HAILAKANDI, ASSAM, PIN- 788151.

3:THE PRESIDENT,
GOVERNING BODY OF SRIKISHAN SARDA COLLEGE, HAILAKANDI
P.O. AND DIST.- HAILAKANDI, ASSAM, PIN- 788151.

4. UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY,
HAVINGN ITS OFFICE AT BAHADUR SHAH ZAFAR MARG,
NEW DELHI-110002.

.....**Respondents**

Linked Case : WA/284/2017

1. THE STATE OF ASSAM,
REPRESENTED BY THE COMMISSIONER and SECY. TO THE GOVT. OF
ASSAM, EDUCATION HIGHER DEPTT., DISPUR, GUWAHATI-6.

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

...**Writ Appellants**

-Versus-

1. DR. PROTIM SHARMA,
S/O NALINI CHARAN SHARMA,
R/O H.C.B. ROAD, AMOLAPATTY, SIVSAGAR, PIN 785640.

2: THE PRESIDENT, GOVERNING BODY,
SIBSAGAR GIRLS COLLEGE, DISTRICT- SIVASAGAR, PIN-785640.

3. UNIVERSITY GRANTS COMMISSION,
MINISTRY OF HUMAN RESOURCE DEVELOPMENT,
GOVERNMENT OF INDIA, BAHADUR SHAH MARG,
NEW DELHI-110002.

.....**Respondents**

– BEFORE –

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Appellant(s) : Mr. D. Saikia, Advocate General, Assam assisted by
Mr. K. Gogoi, Standing Counsel, Higher Education
Department and Ms. R. Baruah, Advocate.

For the Respondent(s) : Mr. B. Purkayastha, Advocate for respondent No.1 in
WA No.195/2019.

Mr. Y.S. Mannan, Advocate for respondent No.1 in WA
284/2017.

Mr. D. Saikia, Senior Advocate assisted by Mr. A.
Chamuah, Standing Counsel, UGC.

Mr. K.N. Choudhury, Senior Advocate assisted by Ms. N.
Mahanta, Advocate for respondent No.2 in WA 284/2017.

Date of Hearing : 28.07.2023.

Date of Judgment : 18.09.2023.

JUDGMENT & ORDER

[Sandeep Mehta, CJ]

These two intra-Court writ appeals involve identical questions of facts and law and hence, the same have been heard and are being decided together by this common order.

2. Brief facts relevant and essential for disposal of these two intra-Court writ appeals are noted hereinbelow.

WA No.284/2017

3. The respondent No.1/writ petitioner, Dr. Protim Sharma, is a Ph.D. Degree holder in English from Dibrugarh University and was appointed as a Lecturer in English in the Dikhowmukh College vide order dated 12.05.1998 issued by the Director of Higher Education, Assam, i.e. the appellant No.2 herein. The service of the respondent No.1, Dr. Protim Sharma, was confirmed vide order dated 21.08.2000 issued by the appellant No.2. He was granted Senior Grade Scale of Pay by order dated 14.10.2011 issued by the appellant No.2 and the pay-scale was made effective from 12.05.2009. Respondent No.1 was promoted to the post of Associate Professor in the Dikhowmukh College vide order dated 12.05.2012.

The President of the Governing Body of Sibasagar Girls' College, the respondent No.2 herein [respondent No.3 in WP(C) No.5079/2016] issued an advertisement on 09.06.2016 inviting applications from eligible candidates for

filling up the post of Principal, Sivasagar Girls' College.

The respondent No.1, Dr. Protim Sharma, participated in the selection process for the post of Principal of the said College, initiated by the Governing Body of the College in the year 2016.

The Selection Committee examined the applications and recommended the respondent No.1, Dr. Protim Sharma, for appointment to the post of Principal of the said College. The Governing Body of Sivasagar Girls' College, vide Resolution No.1 of the meeting dated 08.07.2017, accepted the recommendation of the Selection Committee and forwarded the proposal for appointment of the respondent No.1, Dr. Protim Sharma, to the post of Principal, Sivasagar Girls' College vide communication dated 18.07.2016, to the Director of Higher Education, Assam for approval. The Director of Higher Education rejected the proposal for appointment of respondent No.1, Dr. Protim Sharma vide order dated 05.08.2016 on the ground that the proposal was not in order.

The language of the order dated 05.08.2016 is reproduced herein-below for the sake of ready reference:-

"No. DHE/CE/AC/306/2016/183 Dated Kahilipara, the 05-08-2016

From:-Sri P. Jidung, MA., M.Phil, L.L.B., AES

Director of Higher Education, Assam

Kahilipara, Guwahati-19.

To,

The President, Governing Body,

Sivasagar Girls' College, Sivasagar,

District- Sivasagar.

Sub: Regarding appointment of Principal.

Ref: Your letter No.GC/67/556/16, dated 19-07-2016.

Sir,

In inviting a reference to the subject cited above, I would like to state that the proposal submitted by you vide your letter mentioned under reference in connection with approval of appointment of Principal of your College is found not in order nor in complete form. Further, you have failed to furnish required particulars even after instruction issued by this Directorate vide this office letter No.DHE/ CE/ AC/ 306/ 2016/21, dated 18-07-2016.

Therefore, the proposal submitted by you has been rejected and cancelled with a direction to reinitiate the whole process of selection by observing all formalities as per guideline in force.

The matter may be treated as Most Urgent.

Yours faithfully

Director of Higher Education, Assam

Kahilipara, Guwahati-19.”

The respondent No.1, Dr. Protim Sharma, filed writ petition, WP(C) No.5709/2016, challenging rejection of the proposal by impugned letter dated 05.08.2016, which came to be accepted by the learned Single Bench by order dated 08.09.2017, which is assailed in this writ appeal (WA No.284/2017).

WA No.195/2019

4. The respondent No.1/writ petitioner, Dr. Amalendu Nag completed his post-graduation in Political Science from Gauhati University in the year 1987. He was appointed as a Lecturer in the Department of Political Science in Srikishan Sarda College, Hailakandi, vide communication dated 16.02.1989/ 28.02.1989. The appointment of the respondent No.1 which was temporary in nature, received approval from the Director of Higher Education, Government of Assam vide letter dated 25.08.1993. The respondent No.1, Dr. Amalendu Nag received the Senior Grade Scale of Pay vide communication dated 10.05.2000 issued by

the Director of Higher Education, Assam, appellant No.2. He acquired Ph.D. degree in Political Science from Assam University, Silchar in the year 2004.

The respondent No.3, i.e. the President of Governing Body of Srikishan Sarda College, Hailakandi issued an advertisement dated 06.06.2016 inviting applications for recruitment for the post of Principal of the said College. The respondent No.1, Dr. Amalendu Nag and two more candidates applied in pursuance thereof. The respondent No.1, Dr. Amalendu Nag, scored the highest marks in the selection process and accordingly, his name was recommended by the Selection Committee for appointment to the post of Principal of the said College. The Governing Body of the College forwarded the recommendation of the Selection Committee to the appellant No.2 i.e. the Director of Higher Education, Assam for approval. However, the respondent No.2 rejected the recommendation vide order dated 24.02.2017.

Language of the order dated 24.02.2017 is reproduced hereinbelow for ready reference:

*“GOVERNMENT OF ASSAM
OFFICE OF THE DIRECTOR OF HIGHER EDUCATION, ASSAM
KAHILIPARA, GUWAHATI*

No.DHE/CE/AC/10/2017/114

Dated. 24/2/2017

Order

Seen the Selection record of the Post of Regular Principal of SRIKISHAN SARDA COLLEGE, HAILAKANDI together with GB Resolution no. 1 dated 3/1/2017. The GB has recommended Dr. Amalendu Nag to have been selected as regular Principal in the Selection held on 21.12.2016.

The Selection Committee has selected Dr. Amalendu Nag. Altogether 3 candidates appeared and secured marks as under :-

Sl	Name	Marks secured	Remarks
1.	Dr. Mala Sharma	61.37	
2	Dr. Amalendu Nag	70.81	
3.	Dr. Sultan Akhtarul Iman Choudhury	55.24	

On examination of the documents of the selected candidates, it is seen that he acquired Ph.D from Assam University Silchar in the year 2004. Passed MA from GU and secured 58.38%.

On Examination of his testimonials of Research Guideship, it is seen that he has submitted:-

- 1. A letter from Ph.D Coordinator, Shri Jagdish Prasad Jhabarmal Tibrewala University, Rajasthan to the effect that he is Ph.D Guide of that University.*
- 2. A Certificate from Co-Ordinator IGNOU Study Centre Hailakandi to the effect that Dr. Amalendu Nag has been working as Academic Counsellor of TDC and PG Courses in Pol. Science in the Study Centre of Indira Gandhi National Open University.*

Ph.D Degree cannot be conferred on distance mode; he cannot be a Research Guide of a University Situated outside the State. Hence the Selected Candidate does not fulfill the Criteria of Research Guide necessary for the Post of Principal.

As such the Recommendation of the Selection Committee can not be accepted and hereby regretted and rejected.

The Governing Body is directed to issue fresh Advertisement for the Post of Principal early.

Director of Higher Education, Assam.

No. DHE/CE/AC/10/2017/114 Dated 24/2/2017"

Assailing the order dated 24.02.2017, the respondent No.1, Dr. Amalendu Nag, preferred WP(C) No.4086/2017 which came to be accepted by the learned Single Bench by the impugned judgment and order dated 19.07.2018 interfering

and reversing the order dated 24.02.2017 with further direction to reconsider the recommendation of the Governing Body in favour of the respondent No.1/writ petitioner, Dr. Amalendu Nag. The said judgment dated 19.07.2018 has been assailed by the State of Assam and the Director of Higher Education, Assam by way of this intra-Court Writ appeal, WA No.195/2019.

5. The common questions of facts and law, which have arisen for determination in these two appeals, are enumerated below:-

- (i) Whether the 55% marks obtained in MA Degree Course by the respondents/aspirants could have made them entitled to be considered for the posts of Principal as being in satisfaction of the UGC norms when such marks were inclusive of grace marks awarded by the university concerned?
- (ii) Whether the inclusion of grace marks in the MA Degree course would lead to a conclusion that the respondents/aspirants did not have good academic records as per the UGC norms applicable for selection to the post of Principal?
- (iii) Whether the respondents being the candidates for the posts of Principal in the two colleges had actually met the required norms, i.e. 55% marks considering the fact that the University concerned had granted them grace marks?
- (iv) Whether the experience of guiding Research Candidates at doctoral level was an essential requirement as per the UGC norms for appointment to the post of Principal?

6. The learned Single Benches decided these issues in favour of the respondents/writ petitioners by the judgements dated 08.09.2017 rendered in

WP(C) 5079/2016 and dated 19.07.2018, rendered in WP(C) 4086/2017, which are assailed in these two intra-court writ appeals.

7. Mr. D. Saikia representing the appellants herein in the capacity of learned Advocate General, and representing the respondent UGC as a learned senior Advocate, vehemently and fervently contended that the "UGC Regulations On Minimum Qualifications For Appointment Of Teachers And Other Academic Staff In Universities And Colleges And Measures For The Maintenance Of Standards In Higher Education, 2010 (for short, "UGC Regulations, 2010) and, to be specific, the condition Nos. 3.3.0 and 3.4.1 thereof clearly stipulate that qualifications for appointment as Principal, as prescribed in the Regulations are mandatory in nature and since the writ petitioners/respondents herein had acquired 55% marks in the Master's Degree with grace marks, they were not holding the requisite qualification as per the above two Clauses of the UGC Regulations, 2010 so as to be considered for appointment as Principals in colleges.

He further contended that Clause 4.1.0 of the Regulations makes it essential that the aspirants for the post of Principal must have gained experience of guiding Research Candidates in their doctoral level. However, the experience certificates presented by the respondents were acquired from unrecognised institutions/establishments which were imparting degrees in Offline Campuses. As such the certificates were not compliant with the UGC Guidelines.

On these grounds, Mr. Saikia urged that the respondents/writ petitioners were neither having the requisite educational qualification i.e. MA degree with good academic record i.e. 55% as per requirement of the UGC Regulations, 2010 nor did they provide research guidance to doctoral students and

consequently, the Director, Higher Education was justified in the eyes of law while turning down the recommendations of the Governing Body of the College concerned for appointment of the respondents/writ petitioners as Principals. He further contended that though the aforesaid reasons were not specifically mentioned in the letter dated 05.08.2016 (WA 284/2017 – Dr. Protim Sharma) and 24.02.2017 (WA 195/2019 – Dr. Amalendu Nag), issued by the Director of Higher Education, Assam, the fact remains that these letters rejecting the recommendations of the Governing Body of the colleges concerned were issued after due and objective consideration of the mandatory qualifying criterion prescribed by the UGC and, hence, the reasons in support of the impugned action, which have been elaborated in the affidavit filed by the respondent authorities before the writ Court cannot be considered to be extraneous or supplementing the reasons assigned in the decision rejecting the candidature of the respondents/writ petitioners herein. He thus urged that the impugned judgments, whereby the decisions of the appellant/ respondent authorities rejecting recommendations made by the college governing bodies to appoint the respondents/writ petitioners as Principals in the Colleges concerned were reversed, do not stand scrutiny and deserve to be reversed. He contended that the learned Single Judge erred while interpreting the language of Clause 3.4.1 of the 2010 Regulations, which clearly reflects that the eligibility criterion of 55% marks or equivalent grade is mandatory and that such marks must be obtained without including any grace marks. He submits that as both the respondents/writ petitioners acquired the benchmark of 55% marks with grace marks, they were not qualified to be appointed as Principals.

In support of his contentions, Mr. Saikia referred to Clauses 3.2.0 and 4.2.0 of the UGC Regulations, 2010, which read as below:

“3.2.0 *The minimum qualifications required for the post of Assistant Professors, Associate Professors, Professors, Principals, Assistant Directors of Physical Education and Sports, Deputy Directors of Physical Education and Sports, Directors of Physical Education and sports, Assistant Librarians, Deputy Librarians, Librarians will be those as prescribed by the UGC in these Regulations.*

4.2.0 PRINCIPAL

- i. *A Master’s Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) by a recognised University.*
- ii. *A Ph.D. Degree in concerned/allied/relevant discipline(s) in the institution concerned with evidence of published work and research guidance.*
- iii. *Associate Professor/Professor with a total experience of fifteen years of teaching/ research/administration in Universities, Colleges and other institutions of higher education.*
- iv. *A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), as set out in this Regulation in Appendix III for direct recruitment of Professors in Colleges.”*

8. Mr. Saikia placed reliance on the judgment rendered by the Manipur High Court in the case of ***Thoudam Rajen Singh (Dr.) and Ors. Vs. Manipur Public Service Commission & Ors.***, reported in **2016 (1) GLT 74** in support of his contentions and implored the Court to accept the appeals and set aside the impugned orders.

9. Concluding his arguments, Mr. D. Saikia, learned Advocate General, Assam urged that -

(i) Since the benchmark of 55% marks in Master’s Degree was obtained by the respondents/writ petitioners with grace marks, they do not satisfy the mandate of Clause 3.4.1. of the UGC Regulations, 2010 and thus, they cannot be considered within the zone of consideration in the matter of appointment to the post of Principal;

(ii) the writ petitioners/respondents herein did not have the experience of

research guidance to post-graduate/doctoral candidates and, thus, they did not satisfy the requisite qualifying criterion as per Clause 4.3.0 of the UGC Regulations, 2010.

As per Mr. Saikia, since the writ petitioners/ respondents did not provide basic evidence of having guided doctoral candidates and research students, they could not have been even appointed as Associate Professors. On these grounds, Mr. Saikia implored the Court to accept the appeals and reverse the impugned judgments.

10. Per contra, learned counsel Mr. B. Purkayastha, representing Dr. Amalendu Nag, i.e. respondent No. 1 in WA 195/2019; Mr. Y.S. Mannan, learned counsel representing Dr. Protim Sharma, i.e. respondent No. 1 in WA 284/2017, and Mr. K. N. Choudhury, learned Senior Advocate, assisted by Ms. N. Mahanta, Advocate, representing the Governing Body of the Sibasagar Girls' College, i.e. respondent No.2 in WA 284/2017, vehemently and fervently contended that the impugned judgements rendered by the learned Single Bench in the two writ petitions are based on apropos appreciation and analysis of the material available on record and the relevant qualifying guidelines as prescribed in the UGC Regulations, 2010. It was contended that the respondents/aspirants were appointed as Associate Professors/ Professors and are admittedly having more than fifteen years of experience in accordance with Clause 4.2.0, sub-Clause-iii of the UGC Regulations, 2010. Moreover, the respondents/aspirants have the API score and Master's Degree with 55% marks from a recognised University and also have provided their published works and experience certificates in research guidance. Thus, both the respondents/writ petitioners were duly qualified to hold the post of Principal in terms of the Clause 4.2.0 of the UGC Regulations, 2010. It was fervently contended that Clause 3.4.1 of the

Regulations deals with relaxation of 5% marks to SC/ST/Differently Abled category candidates at graduate and Master's Degree level. Once relaxation of 5% marks is granted to such reserve category/differently abled candidates, no further relaxation of grace marks would be admissible to them while assessing their eligibility and academic records for the purpose of direct recruitment to teaching positions. Clause 3.4.1 was interpreted by the learned Single Bench in the correct perspective by applying the principles of interpretation. They thus contended that the view taken by the learned Single Bench in allowing the writ petitions does not warrant interference by this Court.

11. They also urged that the ratio of the Manipur High Court judgment in the case of *Thoudam Rajen Singh (Dr.)* (supra) relied upon by the learned Advocate General does not apply to the present controversy, because in the said case, the very status of the aspirants as Research Guides was in dispute. The issue primarily involved was as to whether the experience, which can be gained only by giving research guidance to some other research scholars, is a part and parcel of Ph.D. Degree course.

They thus urged that the said judgment does not apply to the case at hand even remotely. They further urged that while making assessment of the documents of the respondents herein, their candidatures, as recommended by the Governing Body of the colleges concerned, were rejected by cryptic orders and, hence, the learned Single Bench was perfectly justified in reversing the orders passed by the Director of Higher Education and remanding the cases back to the authorities for fresh consideration.

12. We have given our thoughtful consideration to the arguments advanced at the Bar and the material placed on record.

13. The thrust of submissions of learned senior counsel and Advocate General Mr. Saikia appearing for the appellants was that the writ petitioners/respondents herein were required to secure 55% marks without having the benefit of grace marks in their post-graduate degrees.

Clause 3.2.0 of the UGC Regulations, 2010 stipulates that the qualifying criterion for the posts of Assistant Professors, Associate Professors, Professors, Principals, Assistant Directors of Physical Education and Sports, Deputy Directors of Physical Education and Sports, Directors of Physical Education and sports, Assistant Librarians, Deputy Librarians, Librarians will be those as prescribed by the UGC in these Regulations. Thus clearly, this Clause of the Regulations does not stipulate the qualification for the posts of Principal. Clause 4.2.0 lays down the qualifications for the post of Principal.

Clause 3.4.1., which was much harped upon by learned Advocate General, is reproduced hereinbelow:

“3.4.1. A relaxation of 5% may be provided at the graduate and master’s level for the Scheduled Caste/Scheduled Tribe/Differently-abled (Physically and visually differently-abled) categories for the purpose of eligibility and for assessing good academic record during direct recruitment to teaching positions. The eligibility marks of 55% marks (or an equivalent grade in a point scale wherever grading system is followed)) and the relaxation of 5% to the categories mentioned above are permissible, based on only the qualifying marks without including any grace marks procedures.”

14. A bare perusal of the language of the above Clause would make it clear that it rules out the possibility of grant of dual benefits to the candidates of the categories referred therein, meaning thereby that once relaxation of 5% in the graduate/master’s degree level is granted to a Reserved Category candidate, the eligibility criterion of 55% marks would have to be applied without any grace marks. The plain meaning of the above provision is that once

the benefit of relaxation of 5% is taken, the threshold would not be further lowered by admitting candidates who had cleared the degree with grace marks. Manifestly, the said Clause applies exclusively to SC/ST and differently abled candidates and does not deal with the general category candidates.

The relevant Clauses of UGC Regulations, 2010, which deal with direct recruitment to various posts, can be enumerated as below:

4.1.0	Professor
4.2.0	Principal
4.3.0	Associate Professor
4.4.0	Assistant Professor

Since we are dealing with a case of selection to the post of Principal, we need not dwell into the Clauses which govern direct recruitment to the posts of Professor, Associate Professor or Assistant Professor because all the Clauses have different fields of applicability.

The applicable UGC Regulations were issued in the year 2010. There is no dispute that the writ petitioners/respondents herein had acquired the status of Professors much before the coming into force of the UGC Regulations and, moreover, the validity of their doctoral degrees was never an issue under consideration before the learned Single Benches, or in these writ appeals for that matter and hence, the issue of qualifying criterion for the post of Professor, vehemently agitated by learned Advocate General does not warrant consideration and adjudication by this Court in these two appeals.

The only Clause of the UGC Guidelines which requires interpretation/appreciation by this Court would be Clause 4.2.0 (supra) which expressly lays down the criterion for direct recruitment to the post of Principal. Clause 4.2.0.(i) ordains that the candidate must have gained master's degree with at least 55% marks, or an equivalent grade in a point scale wherever grading system is followed, by a recognised University. There is no dispute that both the respondents/writ petitioners had cleared the Master's Degree with 55% marks, albeit by grant of grace marks. In this context, the very perusal of Clause 3.4.1 would make it clear that wherever the UGC intended to exclude the candidates with grace marks, clear indication was given in the Guidelines itself. Clause 3.4.1 clearly stipulates that candidates from ST/SC/Differently-abled category would be given relaxation of 5% in the qualifying threshold of 55% in the graduate or post-graduate level. Once having taken advantage of this relaxation, these candidates would not be entitled for dual advantage of grace marks when the criterion of minimum marks is being applied for recruitment to a post. The direct corollary to this proposition would be that if a candidate from SC/ST/Differently-Abled category were to apply for the post of Principal then he/she will get relaxation of 5% marks only if he/she had achieved the threshold of 50% marks (Graduation/Post Graduation) without any grace marks. Hence, for being considered on the post of Principal, a candidate of General Category is allowed to achieve the 55% threshold marks in Graduation/Post Graduation even with grace marks. Thus, the view taken by the learned Single Bench after interpretation of the UGC Guidelines is apropos and was justly applied for adjudicating the controversy.

15. Another fervent contention of Mr. Saikia, learned Advocate General in assailing the impugned orders was that the aspirants to the post of Principal

must be possessed of evidence of published works and the experience of research guidance to candidates of post-graduate and doctoral candidates. However, we are not convinced by such submission of Mr. Saikia for the simple reason that wherever the UGC intended to prescribe that the experience of the aspirants in providing research guidance to the candidates of post-graduate/doctoral level is necessary for recruitment to a particular post, indication has been clearly given in the relevant Clause of the Guidelines. The Guidelines governing selection in the post of Professor, contained in Sub-Clause A(ii) of Clause 4.1.0, clearly postulate that the aspirants must be possessing the experience of guiding candidates for research at doctoral level. Likewise, for the post of Associate Professor, it is specifically provided in Clause 4.3.0 that the aspirant should have evidence of having guided doctoral candidates and research students.

As against this, as per Clause 4.2.0 (ii), for the post of Principal, the candidate concerned is required to have Ph.D. Degree in concerned/allied/relevant discipline(s) in the institution concerned with evidence of published work and research guidance. There is no specific indication in this Clause that the candidates must have the experience of having guided candidates for research at doctoral level or post-graduate level. The distinction in the language and field of operation of the clauses governing the particular post/posts is well defined and leaves no room for a different interpretation. Hence, the contention of Mr. Saikia that the respondents/writ petitioners herein did not meet the requirements of the UGC Guidelines is without merit. The judgment cited by Mr. Saikia in the case of ***Thoudam Rajen Singh (Dr.)*** (supra) is clearly distinguishable on facts because in the said case the live issue, which the Court discussed, was whether the experience of research guidance is a part of Ph.D.

Degree and whether the candidates were required to be not only a doctorate in the concerned discipline, but must have published works and must have guided some research scholars. In the said case the Court held that “research guidance” relates to an experience which is not an integral part of the Ph.D. Course but the experience outside the Ph.D. course which can be gained only by giving research guidance to other research scholars. The Manipur High Court also explained Clause 3.2.0 of the Guidelines 2010 at paragraph 26 of the said judgment with the following observations:

“26. We are not able to accept the contentions of the respondents. The argument advanced by the private respondents that the requirement of “research guidance” of a candidate relates to the guidance received by the candidate concerned under a guide in course of obtaining the Ph.D. Degree flies in the face of the rules. The essential qualification for appointment to the post of Principal as per the Advertisement and the UGC norms is the possession of “Ph.D. Degree in the concerned/ allied/ relevant discipline(s) in the institution concerned with evidence of published work and research guidance.” What the rules therefore, require is that the candidate should be

- (i) A Ph.D. Degree holder in the concerned discipline,*
- (ii) There must be evidence of the candidate having*
 - (a) published works*
 - (b) research guidance.*

In other words, the candidate must not only be a doctorate in the concerned discipline but must have published works to his credit and must have guided some research scholars since the job concerned (i.e. Principal) is for administration and teaching. This is what once gathers from a plain reading of the aforesaid expression.

We, therefore, hold that the “evidence of research guidance” mentioned in clause (ii) of the essential qualifications in the advertisement would mean the evidence gathered by the candidate after obtaining his own Ph.D. in guiding some other researchers. Any other interpretation will not only be contrary to the plain meaning of the expression used in the rules but also absurd.

We also hold that this requirement of experience of research guidance is also an essential qualification as this requirement has be read along with the possession of Ph.D. Degree as both these are mentioned in the same clause of essential qualification. If this experience of research guidance was not an essential requirement, there was no need to mentioned this under the clause laying down the essential qualifications. To do otherwise would be also against the plain meaning of the expression used. We cannot accept the contention of the private respondents that these words have been mentioned only to clarify the contents of the heads and subheads as mentioned in Category III for calculating the API scores, since there are other heads/subheads which do not find mention under the clause of essential qualifications. There are other items/subjects which are included under Category III, yet do not find mention under the clause of essential qualifications. Therefore, obviously, these are not essential qualifications/ requirements.

Having taken this view, since we have found that there is no evidence of any experience of the private respondents having validly guided researchers, we would hold that the private respondents do not fulfil the essential qualifications of having evidence of research guidance laid down for appointment to the post of Principals of Government Colleges and they are not eligible for appointment to the said posts.”

Manifestly, in the said case the aspirants tried to convince the Court that “evidence of research guidance” as provided in the said Clause was in reference to the experience obtained by the candidates as research guides, which were recognised by the University concerned while undergoing their Ph.D. Courses. The said argument was repelled with the observation and conclusion that the candidates had not acquired the requisite experience as research guides by guiding other research scholars and, thus, they did not fulfil the essential qualifications for appointment to the post of Principal. Consequently, we are of the opinion that the ratio of the above judgment would not come to the rescue of the appellants in the present case.

16. In light of the above discussions, we are of the firm opinion that the judgments dated 08.09.2017 and 19.07.2018 impugned in these appeals, have

been rendered after apropos appreciation of the factual and legal issues raised before the writ court and do not suffer from any infirmity warranting interference in these intra-court writ appeals.

Hence both the appeals fail and are dismissed as being devoid of merits.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant