

GAHC010213552021



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

Case No. : WP(C)/6922/2021

DEB DAS SAHA
S/O. LT. CHANDRA MOHAN SAHA @ CHANDRA MADHAB SAHA, VILL.
PRANAB NAGAR, P.O. HUZ RANGHAGARA, DIST. NAGAON, ASSTT.
TEACHER OF SWAHID CHANDAN SINGH HIGH SCHOOL.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SECONDARY
EDUCATION DEPTT., DISPUR, GUWAHATI-781006.

2:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT SCRUTINY COMMITTEE
REP. THROUGH ITS CHAIRMAN
THE DEPUTY COMMISSIONER
NAGAON DIST.
ASSAM
PIN-782001.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DIST. NAGAON
ASSAM
PIN-782001.

6:THE INSPECTOR OF SCHOOL
NAGAON DISTRICT CIRCLE
NAGAON

ASSAM
PIN-782001.
7:SMTI SIKHAMALA BOARH
THE HEADMISTRESS OF SWAHID CHANDAN SINGH HIGH SCHOOL
MAJARATI
NAGAON
ASSAM
PIN-782002.
8:PRABITRA BORA
ASSTT. TEACHER OF SWAHID CHANDAN SINGH HIGH SCHOOL
MAJARATI
NAGAON
ASSAM
PIN-782002

Advocate for the Petitioner : MRS A BUJARBARUAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 23.06.2023

Heard Ms. A.Bujarbaruah, learned counsel for the petitioner. Also heard Mr. S.Neoge, learned standing counsel, Secondary Education for the respondent Nos. 1, 2, 3 and 6; Mr. G.Pegu, learned Govt. Advocate for respondent No.4 and Mr. A.Phukan, learned standing counsel for the respondent No.5

2. The petitioner's school namely Swahid Chandan Singh High School, Nagaon district was established in the year 1982 and thereafter, the petitioner was appointed as a Lower Division Assistant on 12.12.1986. On a decision taken by the School Management Committee, the petitioner was again appointed as Assistant Teacher (undergraduate) on the same day i.e., 12.12.1986. In the mean time, petitioner acquired the B.A Degree in 1995 from the Gauhati University as well as B.Ed Degree in 2003. The School of the petitioner was provincialised on 01.03.2013. However, the case of the petitioner was left out from provincialization and the service of the respondent No.8 was provincialised in his place. It is the claim of the petitioner that he is senior to the respondent No.8 and the respondent No.8 does not have a B.Ed Degree.

3. In the meantime, the State respondents enacted the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions), Act 2017, (Act of 2017 in short) and under the said Act, process for provincialization of teaching and non-teaching staffs of various schools were taken up. The District Scrutiny Committee, Nagaon also considered the case of the petitioner and recommended his case for the second post as Assistant Teacher. As the case of the petitioner has not been considered by the State Level Scrutiny Committee the petitioner is before this Court by way of the present writ petition. During pendency of this writ petition, petitioner also filed an appeal under Section 14 of the Act of 2017 on 10.10.2022 before the State Level Scrutiny Committee.

4. As the case of the petitioner was not considered by the State Level Scrutiny Committee after being recommended by the District Scrutiny Committee, this Court is of the considered opinion that the petitioner has made the appeal under Section 14 of the Act of 2017 before the wrong forum, inasmuch as, the said appeal should have been filed before the State Government against the decision of the State Level Scrutiny Committee.

5. Accordingly, this writ petition is disposed of directing the petitioner to file a fresh appeal under Section 14 of the Act of 2017 before the Secretary, School Education Department within a period of 2(two) weeks from today. Thereafter the Secretary, School Education Department on receipt of the appeal shall consider and dispose of the same after giving a personal hearing to the petitioner as well as the respondent No.8 by a speaking order and in accordance with law within a period of 1(one) month from the date of receipt of the appeal.

6. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant