

GAHC010254352023



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

Case No. : WP(C)/6711/2023

RAM JANAK CHAUHAN
S/O- BENOW CHAUHAN, R/O- VILL.- NAWAIBIL, P.O. LAMSAKHANG, P.S.
KHERONI, DIST. WEST KARBI ANGLONG, ASSAM, PIN- 782446.

VERSUS

THE KARBI ANGLONG AUTONOMOUS COUNCIL AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY, P.O. DIPHU, DIST. KARBI
ANGLONG (EAST), ASSAM, PIN- 782460.

2:THE SECRETARY
EDUCATION

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
P.O. DIPHU
DIST. KARBI ANGLONG (EAST)
ASSAM
PIN- 782460.

3:THE INSPECTOR OF SCHOOLS

WEST KARBI ANGLONG DISTRICT CIRCLE
P.O. HAMREN
DIST. WEST KARBI ANGLONG
ASSAM
PIN- 782460.

4:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (HIGHER) DEPARTMENT
DISPUR

GUWAHATI-6

Advocate for the Petitioner : MR. S UPADHAY

Advocate for the Respondent : SC, K A A C

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 01.12.2023

Heard Mr. S. Upadhyay, learned counsel for the petitioner and Mr. J. Chutia, learned counsel for the respondents No. 1 and 2, being the authorities in the Karbi Anglong Autonomous Council (KAAC). Also heard Mr. S.M.T. Chistie, learned counsel for the respondents No. 3 and 4, being the authorities in the Secondary Education Department.

2. It is stated that the petitioner was initially appointed in the year 2001 as an Assistant Teacher on a casual basis in the Adarsha Rashtra Bhasha (PVN) High School against a leave vacancy. Pursuant to the Right to Education Act, 2009, and having participated in a selection process as per advertisement No. SSA/KAAC/TT/SPL_TET/18/2012-13/9771 dated 21.02.2013, the authorities under the KAAC had engaged the petitioner Ram Janak Chauhan bearing TET Roll No. 3311025 and was posted at Langkiding EGS School under Socheng Block in the Karbi Anglong district. In this writ petition, the petitioner states a claim for regular appointment against a vacancy that had arisen on the death of an existing teacher of the school, namely, Ram Nath Thakur.

3. When the matter was heard on 22.11.2023, we required the learned counsel for the petitioner to provide any relevant provision of law which may provide for regularisation of a teacher who was appointed on a

casual/contractual basis against any vacancy that may subsequently fall vacant, either due to death or retirement of an existing teacher. No such proposition has been put forward by the learned counsel for the petitioner. On the other hand by the said order, we also required the learned counsel for the petitioner to obtain an information from the petitioner that in the event a regular selection process is initiated against the aforesaid vacant post, he would be satisfied with a requirement to participate in a selection process but with the required weightage etc. for his earlier experience.

4. Today when the matter is taken up, Mr. S. Upadhyay, learned counsel for the petitioner states that the petitioner would be satisfied with such a direction.

5. Mr. J. Chutia, learned counsel for the respondents in the KAAC on the other hand, states that the selection for the vacant post referred above would be conducted by the authorities in the KAAC as per the provisions of the Assam Secondary Education (Provincialised Schools) Rules, 2018 (for short 'the Rules of 2018'). Accordingly, Mr. J. Chutia, learned counsel for the respondents in the KAAC states that recruitment would be done as per the provisions of Rule 8 of the Rules of 2018 which lays down the procedure for recruitment to the post of graduate teacher in a provincialised school inasmuch as, it is an admitted position that the Langkiding EGS School is a provincialised school.

6. A reading of Rule 8 of the Rules of 2018 makes it discernible that upon the applications being invited pursuant to an advertisement, the Member Secretary shall prepare a list of eligible candidates as per the provisions of Schedule II to the Rules of 2018 and from the provisions thereof, it is discernible that in the event a teacher was earlier working in some other capacity, Clause 2(iv) of Schedule II to the Rules of 2018 requires that 60 marks is to be allotted towards experience of fifteen years of service as a undergraduate/junior teacher in a

provincialised high school having requisite academic and professional qualification and any experienced teacher who had appeared but could not secure the minimum qualifying 60 marks in TET, shall also be awarded at least 60 marks if he/she had already completed fifteen years of teaching experience.

7. In view of the above, the petitioner is required to submit his application in respect of any advertisement that the authorities may call for pursuant to the vacant post and in the event the petitioner makes an application, the authorities shall also take note of the provisions of Clause 2(iv) of the Schedule II of the Rules of 2018 and examine as to what weightage the petitioner would be entitled for his earlier experience from the year 2001 and accordingly consider his application.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant