

GAHC010280362023



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

Case No. : WP(C)/7242/2023

ANJUMANI KALITA
WIFE OF SRI UDDIPTA DAS, RESIDENT OF VILLAGE- BAGHMARA, POST
OFFICE- BAGHMARA BAZAR, POLICE STATION- PATACHARKUCHI,
DISTRICT- BAJALI, PIN- 781328, ASSAM.

VERSUS

1: THE STATE OF ASSAM AND 4 ORS REPRESENTED BY THE SECRETARY
TO THE GOVERNMENT OF ASSAM, SECONDARY EDUCATION, DISPUR,
GUWAHATI- 781006, KAMRUP(M), ASSAM.

2: THE DIRECTOR SECONDARY EDUCATION
ASSAM KAHILIPARA GUWAHATI- 781019 KAMRUP(M) ASSAM.

3: THE INSPECTOR OF SCHOOLS
BARPETA DISTRICT CIRCLE BARPETA ASSAM.

4: THE SCHOOL MANAGING COMMITTEE PATHSALA SENIOR SECONDARY
SCHOOL P.O.- PATHSALA DISTRICT- BAJALI ASSAM- 781325.

5: THE PRINCIPAL PATHSALA SENIOR SECONDARY SCHOOL
P.O.- PATHSALA DISTRICT- BAJALI ASSAM- 781325

Advocate for the Petitioner : MR S SARMA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 13-12-2023

Heard Mr. S. Sarma, learned counsel for the petitioner. Also heard Mr.
U. Sharma, learned standing counsel, Education (Secondary) Department

representing the respondent Nos.1, 2 & 3.

In view of the order proposed to be passed in the present proceeding, notice upon the respondent Nos.4 & 5 is not deemed necessary.

The petitioner, on completion of her education, was appointed as a Post Graduate Teacher on 16.08.2018 in Pathsala Mahavidyalaya Junior College (now Pathsala Senior Secondary School). The said appointment was made by the Governing Body of the Junior College in view of the vacancy existing in the Junior College and a need of a person in the Department of Assamese to teach the students. The said engagement of the petitioner was also brought to the notice of the respondent authorities from time to time. The petitioner since the date of her appointment has been continuing in the said Junior College till date.

The Principal of the said Junior College, vide communication dated 28.02.2019, requested the Director of Secondary Education, Assam, i.e. the respondent No.2, for regularization of the services of the petitioner and 2(two) others, who were working in the said Junior College. In the said communication, it was mentioned that the petitioner is the only single teacher available in the Department of Assamese and as such, her services were indispensable.

The said communication of the Principal was forwarded and the same remained unconsidered. However, the Director of Secondary Education, Assam vide communication dated 16.02.2018 requested for grant of necessary finance SIU approval to fill up the vacant posts available in Pathsala Mahavidyalaya Junior College, Barpeta including the post held by the petitioner herein. Thereafter, vide communication dated 08.11.2023, the respondent No.2 directed the Inspector of Schools, Barpeta District Circle, Barpeta, i.e. the respondent No.3, to fill up the vacant posts available in the Junior College in question by following the provisions of the Assam Secondary Education (Provincialised

Schools) Service Rules, 2018. It was further directed vide the said communication not to allow the petitioner to take classes as Post Graduate Teacher (Assamese) in the Junior College and to take necessary steps for cancellation of her honorary engagement. It is under these circumstances that the present proceeding has been instituted before this Court making a grievance against the said communications dated 16.02.2018 and 08.11.2023.

I have considered the submissions made by the learned counsel for the parties and have also perused the materials available on record.

It is an admitted position that the petitioner is working in the Junior College on honorary basis and her initial appointment was not in pursuance to a regular process of recruitment. The petitioner is working on honorary basis since the date of her initial appointment, which occasioned on 16.08.2018.

In that view of the matter, the petitioner does not have any vested right to claim regularization of her services in the Junior College. The petitioner can only claim for regular appointment by following the due procedure prescribed under the 2018 Rules and in no any other manner. However, taking note of the disclosure made in the writ petition that the petitioner is the only Post Graduate Teacher in the Department of Assamese and that she has been serving in the said Junior College w.e.f. 2018, it is provided that the petitioner's service shall not be disturbed till a regular appointment in pursuance to a regular process of selection is made to the said post.

The respondent authorities are directed to expedite the process of recruitment to the posts lying vacant in the said Junior College including the post held by the petitioner. In the event, an advertisement is issued for filling up the post held by the petitioner, the petitioner shall be permitted to submit her application against the said post and if any condonation of age is required, the

same shall be considered by the respondent authorities. It is reiterated that the petitioner is permitted to continue in the Junior College till a regular appointment is effected after following the due selection process as mandated under the 2018 Rules.

With the above directions, the writ petition stands disposed of. There will be no order as to costs.

JUDGE

Comparing Assistant