

GAHC010280932019



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

Case No. : WP(C)/8807/2019

MINAKHI BARUAH
D/O SRI DAMBARUDHAR BARUAH, R/O WARD NO. 1, BIHPURIA, P.O. AND
P.S. BIHPURIA, DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
ELEMENTARY EDUCATION DEPTT. SACHIVALAYA, DISPUR, ASSAM-781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM ELEMENTARY EDUCATION DEPTT. DEPTT.
SACHIVALAYA
DISPUR
ASSAM-781006

3:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT. SACHIVALAYA
DISPUR
ASSAM-781006

4:THE DEPUTY COMMISSIONER
LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

5:THE STATE LEVEL COMMITTEE
FOR COMPASSIONATE APPOINTMENT
REP. HEREIN BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
SACHIVALAYA

DISPUR
GUWAHATI-

Advocate for the Petitioner : MR. S BARTHAKUR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 22.11.2023

Heard Mr. D. Gogoi, learned counsel for the petitioner and Mr. A. Phukan, learned counsel for the respondents No. 1, 2 and 3, being the authorities in the Elementary Education Department. Also heard Mr. G. Pegu, learned Addl. Senior Government Advocate for the respondents No. 4 and 5, being the Deputy Commissioner, Lakhimpur and the Chief Secretary to the Government of Assam, respectively.

2. The mother of the petitioner Ponamai Baruah who was an Assistant Teacher of Bihpuria M.V. School and thereafter Headmistress of the said school, died in harness on 22.10.2010 and on her death, the petitioner submitted an application of compassionate appointment on 10.01.2011. The said application was placed before the DLC of Lakhimpur district in its meeting of 10.08.2011. Upon evaluation of a vacancy, the petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah was recommended for a post of Assistant Teacher under Grade-III category. The grievance raised is that the said recommendation by the DLC of Lakhimpur district in its meeting of 10.08.2011 had not been placed before the SLC.

3. Mr. G. Pegu, learned Addl. Senior Government Advocate for the respondents No. 4 and 5 upon obtaining information states that another

Minakshi Baruah was incorrectly referred to the SLC and therefore the writ petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah was not referred. It is also stated that the other Minakshi Baruah who was incorrectly referred instead of the present petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah is stated to be Smt. Minakshi Baruah, wife of late Pitambar Sut.

4. As there is a recommendation in favour of Smt. Minakshi Baruah, daughter of late Ponomai Baruah for compassionate appointment to a post of Assistant Teacher under Grade-III category, merely because by mistake another Minakshi Baruah was referred to the SLC cannot be a reason to deprive the petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah in whose favour there is a recommendation by the DLC to be placed before the SLC for compassionate appointment.

5. In view of the above, the recommendation made in favour of the petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah by the DLC of Lakhimpur district in its meeting of 10.08.2011 be placed before the next available SLC. We are clarifying that the SLC shall consider the recommendation on its own merit and should not reject it either on the ground of no vacancy being available presently inasmuch as, the vacancy may have been consumed by some other applicant nor it shall be rejected on the ground that the recommendation was of the year 2011. The SLC to also take note that the recommendation of the petitioner Smt. Minakshi Baruah, daughter of late Ponomai Baruah was for a post of Assistant Teacher under Grade-III category which carries a corresponding qualification and although in the year 2011 the petitioner may have been qualified, but going by the present qualification required for the post of Assistant Teacher, she may or may not have the qualification. The recommendation made in favour of the petitioner shall not be

rejected also on the ground that presently she may not have the required qualification and if that is the case before the SLC and as her recommendation was not placed before the SLC because of an illegality by the respondent authorities, the SLC may consider her recommendation for compassionate appointment against any other suitable vacancy for which she may have the due qualification as on present.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant