

GAHC010284522023



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

Case No. : WP(C)/7316/2023

TULIKA KALITA
D/O- BIREN KALITA,
RESIDENT OF VILL. AND P.O.- BARBANG,
P.S.- PATACHARKUCHI,
IN THE DISTRICT OF BAJALI,
ASSAM, PIN- 781325.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI

IN THE DISTRICT OF KAMRUP(M)

ASSAM
PIN- 781019.

3:THE INSPECTOR OF SCHOOLS
BDC
BARPETA
DISTRICT- BARPETA

ASSAM

PIN- 781301

4:THE PRINCIPAL
PATHSALA SENIOR SECONDARY SCHOOL
P.O.- PATHSALA

IN THE DISTRICT OF BAJALI

ASSAM
PIN- 781325.

5:THE SCHOOL MANAGING DEVELOPMENT COMMITTEE

REPRESENTED BY ITS PRESIDENT

PATHSALA SENIOR SECONDARY SCHOOL

PATHSALA
P.O.- PATHSALA

IN THE DISTRICT OF BAJALI

ASSAM
PIN- 781325

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date : 15.12.2023

ORDER

Heard Mr. P. J. Saikia, learned senior counsel, assisted by Mr. P. Bordoloi, learned counsel, appearing on behalf of the petitioner. Also heard Mr. U. Sarma, learned standing counsel, Education (Secondary) Department, appearing on behalf of 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 by way of instituting the present proceeding, has presented a challenge to the communications, dated 04.12.2023 and 08.12.2023(Annexure-7 colly) by which the petitioner has been released from her service as Honorary Post Graduate Teacher at Pathsala Senior Secondary School.

The petitioner, on completion of her education, was appointed as a Post Graduate Teacher(Assamese) on 11.11.2019 in Pathsala Senior Secondary School. The said appointment was made by the Governing Body of the school in view of the vacancy existing in the said school 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 school till date.

The Inspector of Schools, BDC, Barpeta, i.e. respondent No. 3, vide communication dated 19.04.2023, forwarded to the Director of Secondary Education, Assam, i.e. the respondent No.2, a proposal received from the Principal, i/c Pathsala Senior Secondary School, for appointment of the petitioner against a vacant post of Post Graduate Teacher available in the school. The said proposal has been, however, remained unconsidered.

However, the Inspector of Schools, BDC, Barpeta, sent a letter to the Principal of Pathsala Senior Secondary School i.e. respondent No. 4, regarding release of the petitioner from the said post. Thereafter, on 08.12.2023; the respondent No. 4 released the petitioner from the post of honorary Post Graduate Teacher (Assamese). It is under these circumstances that the present proceeding has been instituted before this Court making a grievance against the said communications dated 04.12.2023 and 08.12.2023.

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 Pathsala Senior Secondary School 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 11.11.2019.

In that view of the matter, the petitioner does not have any vested right to claim regularization of her services in Pathsala Senior Secondary School. 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 a Post Graduate Teacher in the Department of Assamese and that she has been serving in the said Junior College w.e.f. 2019, 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 school 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.

In view of the above conclusions, the impugned communications, dated 04.12.2023 and 08.12.2023 are interfered with. The petitioner shall be permitted to continue in Pathsala Senior Secondary School as a Post Graduate Teacher 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 shall be no order as to costs.

JUDGE

Comparing Assistant