

GAHC010009092024



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

Case No. : WP(C)/211/2024

MUNINDRA KUMAR DAS
SON OF SRI DHANPATI DAS,
RESIDENT OF FATASIL, GANESHPARA
GUWAHATI- 781025, KAMRUP(METRO),
ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI, PIN- 781006.

2:THE DIRECTOR

STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING (SCERT)
KAHILIPARA
GUWAHATI
PIN- 781019

Advocate for the Petitioner : MR. K N CHOUDHURY, N GAUTAM,MR. R M DEKA

Advocate for the Respondent : SC, ELEM. EDU, , MR B GOGOI (SC, SCERT)

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 01.08.2024

Heard Mr. R. M. Deka, learned counsel for the petitioner. Also heard Ms. S. Chutia, learned standing counsel, Elementary Education Department for the respondent No.1 and Mr. S. Bora, learned standing counsel, SCERT for the respondent No.2.

2. The petitioner was promoted to the post of Research Assistant, SCERT, Assam by an order dated 24.02.2021 issued by the Director, SCERT, Assam. Since then, the petitioner is serving as Research Assistant under the SCERT.

3. The present writ petition has been filed by the petitioner for consideration to be promoted to the next higher post of Assistant Research Officer under the Directorate of SCERT, Assam. The learned counsel for the petitioner submits that the service of the petitioner is governed by the Assam Education (Research and Training-Gazetted and Non-Gazetted) Service Order, 2017 (Service Order of 2017 in short) which has been enacted under the proviso to Article 309 of the Constitution. Referring to Clause-6 of the Service Order of 2017, learned counsel for the petitioner submits that the post of Assistant Research Officer is to be filled up by promotion from the post of Research Assistant, SCERT, Assam. Further, Clause-12 of the Service Order of 2017 provides that the post of Assistant Research Officer shall be filled up from the post of Research Assistant having 2(two) years as regular service in the post of Research Assistant. However, despite the petitioner being eligible for consideration to the post of

Assistant Research Officer, SCERT, the respondents are not considering his case and therefore having no option, the petitioner has approached this Court.

4. The respondent No.2/Director, SCERT, Assam has filed affidavit-in-opposition and in paragraph-16 of the said affidavit-in-opposition it is stated that the case of the petitioner was not considered in view of the pendency of Writ Petition No.7626 of 2022.

5. The present writ petitioner filed I.A.(Civil)/905/2023 and I.A.(Civil)/906/2023 in the said Writ Petition No.7626 of 2022 praying for impleadment as a party respondent as well as seeking for clarification of the interim order dated 30.11.2022, passed in Writ Petition No.7626 of 2022. Both the Interlocutory Applications were disposed of by an order dated 02.06.2023, by clarifying that the interim order dated 30.11.2022, passed in Writ Petition No.7626 of 2022 shall not affect the service benefits which may accrue to the applicant (petitioner herein) who is discharging his service as a Research Assistant under Centrally Sponsored Scheme. Therefore, as this Court has already clarified the interim order dated 30.11.2022, passed in Writ Petition No.7626 of 2022, there should be no impediment on the part of the respondents to consider the case of the petitioner for promotion to the post of Assistant Research Officer, particularly, when the petitioner has the requisite eligibility criteria for consideration.

6. Accordingly, this writ petition is disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Assistant

Research Officer, SCERT, Assam within a period of 1(one) month from the date of receipt of a certified copy of the order of this order.

7. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant