

GAHC010023472016



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

Case No. : WP(C)/5041/2016

MD. MAHSEN ALI
R/O LT. LOCHAN ALI, P.O. BURINAGAR, P.S. NALBARI, DIST- NALBARI,
ASSAM, WORKING AS GRADE IV EMPLOYEE IN JANATA HIGH SCHOOL,
BURIGAON, NALBARI

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
EDUCATION DEPTT., DISPUR, GHY-6

2:THE DIRECTOR OF EDUCATION SECONDARY
ASSAM
KAHILIPARA
GHY-19

3:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
ASSAM

4:THE JT. SECY. TO THE GOVT. OF ASSAM

EDUCATION ELE DEPTT.
DISPUR
GHY-6
AND MEMBER SECY. HIGH POWER COMMITTEE
DISPUR
GHY-

Advocate for the Petitioner : MS.K DEVI

**Advocate for the Respondent : MR S M T CHISTIE, SC, SECONDARY EDUCATION
DEPARTMENT**

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 31.05.2024

Heard Mrs. K. Devi, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned standing counsel, Secondary Education Department for all the respondents.

2. It is the case of the petitioner that he was appointed as a Grade-IV Chowkidar in the Janata High School, Burinagar on the basis of a resolution of the Managing Committee of the said school. The petitioner joined to the said post on 02.10.1996. The Inspector of Schools, NDC, Nalbari by an order dated 06.12.1994 provisionally approved the appointment of teaching and non-teaching staffs of the said Janata High School, Burinagar and in the said order the name of the petitioner appears at Sl. No. 13. The teaching and non-teaching staffs of the Janata High School, Burinagar was provincialised on 22.03.1996. However, the name of the petitioner was dropped.

3. On the directions passed by this Court by order dated 23.06.2014, in WP(C)/2350/2013, the case of the petitioner was placed before the High Power Committee. The High Power Committee in its meeting held on 30.09.2015, could not recommend the case of the petitioner on the ground that there is a provision of only one post of Grade-IV in a High School and one sanctioned post of Grade-IV was allotted to the School at the time of provincialisation and as the petitioner joined as 2nd Grade-IV, his case could not be recommended.

4. The relevant portion of the resolution of the High Power Committee which held its meeting on 30.09.2015 reads as under:

“The matter of Md. Mahsen Ali of Janata High School, Burinagar, Nalbari was placed before the committee. As per Govt. Memo No. PMA.13/95/79 dtd 22/11/95, PMA.13/95/81 dtd 29/02/96 and PMA.13/95/PT-III/12 dtd 29/02/96 there is a provision of only 1(one) post of Grade-IV in a High School and one sanctioned post of Grade-IV was allotted to the school at the time of provincialisation. The petitioner in this case joined as 2nd Grade IV. Therefore as per norms his name was not recommended by High Power Committee as dropped Grade-IV employee of the school.”

5. Mrs. K. Devi, learned counsel for the petitioner has produced a copy of an order dated 16.07.2013, by which one Md. Abdul Kuddus was appointed in a Grade-IV post in Langla Higher Secondary School which clearly indicates that the appointment of a Grade-IV post is possible in a Higher Secondary section of a Higher Secondary School. The order dated 16.07.2013 reads as under:

“In pursuance of Govt. Letter No. ELC/WP© 1785/2009/226/ Pt./106 dt. 02.03.2013 communicated vide DSE’s letter No. PC/Sec.71/2011/306 dt. 08.07.2016 the following 2 Nos. dropped Grade –IV are hereby appointed in the Schools shown against their names with Prospective effect.

This has been issued with the approval of Finance (SIU) Deptt. Vide their approval No. FSI.38/13 dt. 18-02-2013.

The appointee concerned has to furnish an undertaking before Joining in the school as Prescribed by the Finance (Budget) Department issued vide their letter No. BW/S/2003/Pt.-II/1 dt. 25-01-2005 regarding introduction of New Pension rule 2005” along with their Joining report.

<u>SL No.</u>	<u>Name of appointment</u>	<u>Designation</u>	<u>Name of the School</u>	<u>Scale of Pay</u>
		<u>where appointed</u>		

1.	Md. Abdul Kuddus	Gr-IV	Langla H.S.S.	Rs.4560-15000/-
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*with Grade Pay of Rs.1500/- P.M.
(under Pay band-1)*

2. Md. Jahir Ali

Gr-IV

G. N. Bardoloi

-Do-

Memorial H.S.

Sd/- Amir Hussain

Inspector of Schools

Barpeta Dist. Circle, Barpeta

Memo No. E/A-314/2002/3896-902

Dated Barpeta the 16/07/13

Copy to:

1. Xxxxxx

2. Xxxxxx

xxxxxx'

The learned counsel for the petitioner submits that the case of the petitioner is similarly situated with that of the said Md. Abdul Kuddus.

6. Mr. B. Kaushik, learned standing counsel, Secondary Education Department submits that the respondents may be directed to reconsider the matter as to whether the case of the petitioner is similar with that of the said Md. Abdul Kuddus.

7. Accordingly, this writ petition is disposed of directing the respondent authorities to consider the claim of the petitioner and if it is found that the petitioner is similarly situated as the aforesaid Md. Abdul Kuddus, similar treatment may be afforded by giving appointment to the Grade-IV post in the said school

which exercise shall be under taken and completed within a period of 3(three) months from the date of receipt of a certified copy of the order of this Court.

8. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant