

GAHC010127382024



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

Case No. : WP(C)/3327/2024

ARJUN KR CHETRI
S/O- LATE PADUM BR. CHETRI,
VILLAGE- SARALAPARA,
P.O.- ULTAPANI,
DISTRICT- KOKRAJHAR,
PIN- 783370.

VERSUS

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

2:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI- 781019.

3:THE DIRECTOR
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR PIN- 783370.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KOKRAJHAR
DISTRICT- KOKRAJHAR
PIN- 783370.

5:THE HEADMASTER
SARALAPARA M.E. SCHOOL
SARALAPARA P.O.- SANTIPUR
DISTRICT- KOKRAJHAR
PIN- 783375

Advocate for the Petitioner : MR. R P SARMAH, MS A DEKA
Advocate for the Respondent : SC, ELEM. EDU, SC, BTC

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
O R D E R

03.10.2024

Heard Mr. R.P. Sharma, learned senior counsel assisted by Mr. B. Doley, learned counsel appearing for the petitioner. Also heard Mr. P.N. Sharma, learned Standing Counsel, Department of School (Elementary) Education, Assam, appearing for the respondent Nos. 1 & 2 and Mr. B. Choudhury, learned Standing Counsel, BTC, appearing for the respondent Nos. 3 and 4.

2. Pursuant to our earlier order dated 01.10.2024, Mr. B. Choudhury, learned Standing Counsel, BTC placed a copy of the Notification No.BTC/Edn(EL)-84/2022/13 dated 29.10.2022, whereby the BTC authorities in the Education Department constituted the District Scrutiny Committee for Higher Education, Secondary Education as well as Elementary Education of Kokrajhar district.

3. Matter relates to non-provincialisation of service of the petitioner as Grade-IV Chowkidar in Saralpara M.E School under Dotma Education Block of Kokrajhar district. It is stated that because of wrong mentioning of date of birth of the petitioner in the enclosure Format-A for provincialisation of his service under the provision of the Assam Education (Provincialisation of Service of Non-Teaching Staffs of Venture Educational Institutions) Act, 2018, his service has been left out from provincialisation under the provision of said 2018 Act.

4. It is stated by the petitioner that his date of birth is 17.10.1968 and

he joined as Chowkidar at Saralpara M.E School under Dotma Education Block of Kokrajhar district at the age of 27 years 05 months 11 days during venture stage of the said M.E School.

5. Mr. R.P. Sharma, learned senior counsel for the petitioner stated that due to the wrong entry of date of birth of the petitioner in service in the Format-A as 17 years 05 months 11 days, instead of 27 years 05 months 11 days, the District Elementary Education Officer by its communication dated 22.09.2022 informed the same to the Director of Elementary Education, Assam. But till date, the respondent authorities did not consider his case for provincialisation of his service as a Grade-IV employee in said Saralpara M.E School of Kokrajhar district under the provision of said 2018 Act. Hence, this writ petition by the petitioner.

6. Section 8 of said 2018 Act provides for an Appellate Authority and it stipulates that- *The State Level Scrutiny Committee shall be the appellate authority in respect of any recommendation of the District Scrutiny Committee and the State Government in the concerned Administrative Department shall be the appellate authority in respect of any recommendation of the State Level Scrutiny Committee.*

7. The petitioner could not state as to whether the District Scrutiny Committee for Elementary Education of Kokrajhar district recommended the name of the petitioner for provincialisation of his service under the provisions of said 2018 Act or not and if so, when.

8. In case, the petitioner's name has not been recommended by the District Scrutiny Committee for Elementary Education of Kokrajhar district and/or rejected his case from being provincialised under the provision of

said 2018 Act, in that event, the Director of Elementary Education, Assam being the Chairman of the State Level Scrutiny Committee shall be the appellate authority for consideration of the case of the petitioner for such provincialisation.

9. Further, in the event, the District Scrutiny Committee for Elementary Education for Kokrajhar district recommended the name of the petitioner for provincialisation of his service under the provisions of said 2018 Act and it is the State Level Scrutiny Committee, who did not consider the case of the petitioner and/or rejected his case from provincialisation under the provisions of said 2018 Act, in that circumstances, it is the Secretary to the Government of Assam in the Department of School (Elementary) Education is the appellate authority against such decision of the State Level Scrutiny Committee.

10. After hearing the learned counsel for the parties and considering entire aspect of the matter, the petitioner is directed to file an appeal stating his grievance including incorrect recording of age in his service at the time of joining as Grade-IV Chowkidar in Saralpara ME School as 17 years 05 months 11 days instead of 27 years 05 months 11 days, for not provincialising his service under the provisions of the Assam Education (Provincialisation of Service of Non-Teaching Staffs of Venture Educational Institutions) Act, 2018, along with all the relevant documents before the appropriate authority concerned as noted above, obtaining necessary acknowledgement from the said authority in that regard.

11. In the event of filing any such appeal under Section 8 of the said 2018 Act by the petitioner before the appropriate authority concerned, i.e., the Director of Elementary Education, Assam or the Secretary to the

Government of Assam in the Department of School (Elementary) Education, as the case may be, the said authority shall consider such appeal of the petitioner after considering all details, even calling for reports from the District Scrutiny Committee, Kokrajhar, the District Elementary Education Officer, Kokrajhar, the Headmaster of said Saralpara M.E School, district-Kokrajhar and on verification of such reports and necessary records of the said M.E School, shall dispose of the appeal of the petitioner by issuing a speaking order in that regard, intimating the petitioner about the outcome of his said appeal.

12. For such purpose, the petitioner on or before 14.11.2024 shall file his appeal along with all the relevant documents and a certified copy of this order before the Director of Elementary Education, Assam or the Secretary to the Government of Assam in the Department of School (Elementary) Education, as the case may be, for provincialisation his service under the said 2018 Act as Grade-IV Chowkidar in Saralpara M.E School under Dotma Education Block of Kokrajhar district.

13. In the event of filing any such appeal by the petitioner before the authority concerned, noted above, the concerned appellate authority shall dispose of the appeal of the petitioner within a period of 90 days from the date of receipt of such appeal to be filed by the petitioner, as directed above.

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

JUDGE

Comparing Assistant