

GAHC010136112017



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

Case No. : WP(C)/4583/2017

SAMPA SUKLABAIDYA
W/O. SRI MUHIT SUKLABAIDYA, R/O. KARIMGANJ ROAD, SATYA GOPAL
LANE, P.O. TARAPUR, DIST. CACHAR, ASSAM, PIN-788003.

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMM. and SECY. TO THE DEPTT. OF SECONDARY
EDUCATION, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA GUWAHATI ASSAM.

3:THE INSPECTOR OF SCHOOLS HDC HAILAKANDI.

4:THE PRINCIPAL I.K. GIRLS' H.S. SCHOOL HAILAKANDI

Advocate for the Petitioner : MR.D MOZUMDER

Advocate for the Respondent : MR. N DHAR (R4)

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 10.06.2024

Heard Mr. M. Nath, learned senior counsel, assisted by Mr. A. Bhattacharjee, learned counsel, appearing on behalf of the petitioner. Also heard Mr. Bedanta Kaushik, learned standing counsel, Secondary Education Department, appearing on behalf of respondents No. 1, 2 & 3; and Mr. S. Dasgupta, learned counsel, appearing on behalf of respondent No. 4.

The present proceeding has been so instituted presenting a challenge to the order, dated 19.06.2017, by which the petitioner who was appointed as an Assistant Teacher in Hindi in I.K. Girls' Higher Secondary School, Hailakandi, was released from her services.

The materials available on record reveals that the petitioner was released from her services on the ground that the petitioner, in her graduation course, did not have 50% marks. The educational and professional qualification mandated to be possessed by a candidate for recruitment as a Hindi Teacher is provided for under Schedule-II of the Assam Secondary Education (Provincialized) Service Rules, 2003. The eligibility criteria as prescribed for the post of Hindi Teacher, in Schedule-II of the Rules of 2003, being relevant is extracted hereinbelow:

“Hindi Teacher:- Pravin/Ratna in Hindi with 50% marks having degree qualification from any recognized university or B.A. with Hindi as one of the subject with 50% marks and B.T./B.Ed. Degree from any recognized university (Parangat to be treated as equivalent to B.ED. degree only for the purpose of Hindi Teaching)”.

The qualification prescribed for the post of Hindi Teacher, inter alia, requiring the candidate to have a degree qualification from any recognized University or BA with Hindi as one of the subjects with 50% marks, an issue would arise as to whether the 50% marks is required to be achieved by the candidate in his/her Hindi paper in her graduation degree or would mandate that the candidate must score 50% marks in his degree course in aggregate.

The said issue is no longer *res integra* in-as-much as a Division Bench of

this Court in Ramesh Chowhan v. State of Assam & ors., in WA NO. 125/2023, vide order, dated 19.05.2023, has held that the said prescription would mean that the candidate is required to have 50% marks in the graduate degree. The relevant observation of the Division Bench in this connection is extracted hereinbelow:

“19. In the instant case, it is seen that, though the appellant possess 50% marks in Hindi as one of his subject, but he did not have 50% marks in aggregate in Graduate degree. As per the advertisement the candidate was required to be Pravin/Ratna in Hindi with 50% of marks having degree qualification from any recognized University or BA with Hindi as one of the subject with 50% or with “BT/B.ED” degree from any recognized University. Though the appellant has the Post Graduate Degree in Hindi with 56.5 marks, however, it was not the requisite qualification prescribed in the advertisement for appointment in Graduate teacher in Hindi. Subsequently, the prescribed qualification for Entry No.3 of Schedule-II of the Assistant Secondary Education (Provincialised) Rules 2018 not enable the appellant to grant the relief as prayed for appointing him as Graduate teacher, which was terminated by the Inspector of School vide order under Memo No.K-IS/Apptt/CT/Hindi/15/2017/15230-37 dated 08.12.2017, in compliance with the order dated 05.12.2017, after rectifying the mistake in appointed order, which was erroneously issued by the Directorate Secondary Education, Assam.”

In the present proceeding, the petitioner admittedly not having secured 50% marks in aggregate in the graduation degree course undertaken by her; she is held to be not eligible to be appointed as a Hindi Teacher. Accordingly, the decision of the respondent authorities to release the petitioner from her services does not call for any interference from this Court.

In view of the above, the writ petition stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant