

GAHC010164312024



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

Case No. : WP(C)/4113/2024

DIGANTA BORA
S/O- SONDHAR BORA, R/O- QUARTER NO. OW/F/09 DIST. DIBRUGARH,
ASSAM, PIN- 786001 AND PERMANENT RESIDENT OF CHIROTIA HAZARI
LINK ROAD, PULIBOR, OPPOSITE BSP SCHOOL, P.S. PULIBOR, DIST.
JORHAT, ASSAM, PIN- 785006.

VERSUS

THE DIBRUGARH UNIVERSITY AND 3 ORS
DIBRUGARH, ASSAM, REPRESENTED BY ITS REGISTRAR, DIBRUGARH
UNIVERSITY.

2:VICE CHANCELLOR
DIBRUGARH UNIVERSITY
DIST. DIBRUGARH
ASSAM
PIN- 786004.

3:EXECUTIVE COUNCIL OF THE DIBRUGARH UNIVERSITY
REPRESENTED BY THE SECRETARY
EXECUTIVE COUNCIL CUM REGISTRAR
DIBRUGARH UNIVERSITY.

4:REGISTRAR
DIBRUGARH UNIVERSITY
DIST. DIBRUGARH
ASSAM
PIN- 786004

Advocate for the Petitioner : MR. T J MAHANTA, MR. A BORUA,MS P SARMA,MS. P P DAS

Advocate for the Respondent : MR. K N CHOUDHURY, FOR CAVEATOR,MR. D J DAS

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 14.08.2024

- 1.** Heard Mr. T.J. Mahanta, learned senior counsel, assisted by Mr. P.P. Dutta, learned counsel for the petitioner.
- 2.** Also heard Mr. K.N. Choudhury, learned senior counsel, assisted by Mr. D.J. Das, learned counsel for all the respondents/ Dibrugarh University.
- 3.** A disciplinary proceeding was drawn up against the petitioner while he was serving as Deputy Registrar (Finance & Accounts) under the Dibrugarh University. The departmental proceeding culminated with the issuance of the Order dated 20.06.2024 issued by the Registrar, Dibrugarh University, by which, the petitioner was dismissed from service of the Dibrugarh University under the provisions of Article 32(vi)(i) of the Dibrugarh University Employees Service Conditions Ordinance 2000 (as amended upto date).
- 4.** Being aggrieved with the Order dated 20.06.2024, the petitioner filed an appeal before the Chancellor of the Dibrugarh University on 18.07.2024. It is the case of the petitioner that his appeal is still pending for disposal, however, in violation of Article 12 of the First Statutes under the Dibrugarh University Act, 1965, the Registrar, Dibrugarh University issued an Advertisement on 10.07.2024 inviting applications for 3 (three) posts which included the post of Deputy Registrar (Finance & Accounts), which was held by the petitioner.
- 5.** Learned senior counsel for the petitioner submits that as Article 12 of the First Statutes provides that no vacancy cause due to dismissal/ removal or

reduction from any class, category of grade in the service, shall be substantively filled up to the prejudice of such persons, until the appeal, if any, preferred by him, is disposed of, therefore, the Advertisement dated 10.07.2024 insofar as relates to the post of Deputy Registrar (Finance & Accounts) under the Dibrugarh University being violative of Article 12 of the First Statutes should be interfered with.

6. Mr. K.N. Choudhury, learned senior counsel appearing on behalf of Dibrugarh University, fairly submits that the action of the respondents, in advertising the post of Deputy Registrar (Finance & Accounts) held by the petitioner, is not in consonance with the Article 12 of the First Statutes. He, therefore, submits that the respondents may be permitted to proceed with the selection process, however, the post of Deputy Registrar (Finance & Accounts) shall not be filled up till the appeal is disposed of by the Appellate Authority.

7. This Court has also considered the Article 12 of the First Statutes which provides as follows:

“Where an employee has been dismissed, removed or reduced from any class, category or grade in the service, no vacancy caused thereby or arising subsequently in such class, category or grade in the service, shall be substantively filled to the prejudice of such person until the appeal, if any, preferred by him against such dismissal, removal or reduction is decided, and except in conformity with such decision or until the time allowed for preferring an appeal has expired, as the case may be.”

On a perusal of the same, this Court is of the considered opinion that the authorities in the Dibrugarh University have acted in unholy haste in issuing the Advertisement for filling up the post of Deputy Registrar (Finance & Accounts) despite the mandate of Article 12 of the First Statutes. Further, as the appeal filed by the petitioner is yet to be disposed of by the Appellate Authority, this Court, without entering into merits, disposes of this writ petition directing the

authorities in the Dibrugarh University not to fill up the post of Deputy Registrar (Finance & Accounts) till the appeal, filed by the petitioner, is disposed of by the Appellate Authority.

8. Liberty is also granted to the petitioner to approach the appropriate Forum in the event any adverse order is passed by the Appellate Authority.

9. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant