

GAHC010183122021



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

Case No. : WP(C)/5894/2021

ABDUL KASHEM,
S/O ABDUS SAMAD, ASSTT. TEACHER AT JAMADARHAT JANATA,
H.S.SCHOOL, JAMADARHAT, DHUBRI, R/O VILL. PORAVITA,
P.O. JAMADARHAT, PIN 783330, DIST. DHUBRI, ASSAM.

---VERSUS---

1. THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, SECONDARY EDUCATION DEPTT., DISPUR, GUWAHATI 6.

2:THE SECONDARY EDUCATION DEPTT.,
DISPUR, GUWAHATI 06.

3:HE DIRECTOR OF SECONDARY EDUCATION, ASSAM,
KAHILIPARA, GUWAHATI 19.

4:THE INSPECTOR OF SCHOOL,
DHUBRI DIST. CIRCLE, DHUBRI, PIN 783330.

5:BIKASH CHANDRA DAS.
S/O LATE MANARANJAN DAS,
ASSTT. TEACHER AT JAMADARHAT JANATA H.S. SCHOOL,
JAMADARHAT, DHUBRI,
R/O VILL. PORAVITA,
P.O. JAMADARHAT, PIN 783330,
DIST. DHUBRI, ASSAM

Advocate for the Petitioner : MR. B K SEN

Advocate for the Respondent : SC, SEC. EDU.

– B E F O R E –

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

18.01.2024

Heard Mr. A.R. Bhuyan, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned Standing Counsel, Secondary Education Department. None appears for the respondent No.5 on call.

2. The petitioner, by way of instituting this writ petition, has presented a challenge to an order dated 07.05.2021, by which the respondent No.5 was promoted on regular basis to the post of Assistant Headmaster in Jamadarhat Janata High School, Dhubri.

3. The petitioner, in his writ petition, has projected that in the course of the said selection, his case was not considered on account of the fact that his B.Ed. Degree obtained from C.M.J. University, Meghalaya was considered not valid by the State respondents.

4. It is projected in the writ petition that in terms of the Rule 15 of the Assam Secondary Education (Provincialised School) Service Rules, 2018 (in short, the Rules of 2018), possession of B.Ed. degree is not an eligibility criteria for being considered for promotion to the post of Assistant Headmaster. It is the further case of the petitioner that he, being the senior-most incumbent in the school and admittedly senior to the respondent No.5, he should have been considered for promotion to the post of Assistant Headmaster of the school in question and accordingly, prays that the order dated 07.05.2021 requires

interference from this Court.

5. From the records of the writ petition, it is seen that the selection process leading to the issuance of the order dated 07.05.2021 was initiated on 04.09.2017 and thereafter, the process was taken forward. The process having been initiated on 04.09.2017, the said Rules of 2018 would have no application therein, inasmuch as, it came into force on 10.10.2019. The said selection process is accordingly governed by the provisions of the Assam Secondary Education (Provincialised) Service Rules, 2003 (in short, the Rules of 2003).

Rule 14 of the said Rules of 2003 mandates that for being eligible for promotion as Assistant Headmaster of a High School, the person concerned, in addition to having the requisite teaching experience, must also have the minimum qualification of Graduation in Arts/Science/Commerce with B.T. or B.Ed. Degree.

6. The petitioner admittedly not having a valid B.Ed. degree during the period when his case for promotion to the post of Assistant Headmaster was under consideration, the respondents have rightly rejected the case of the petitioner and only by virtue of his seniority, the petitioner cannot claim for promotion to the post of Assistant Headmaster ignoring the statutorily prescribed qualifications under the Rules of 2003.

7. The respondent No.5, having the requisite eligibility criteria as mandated under the provisions of Rule 14 of the said Rules of 2003, was selected and appointed as the Assistant Headmaster of the said school vide order dated 07.05.2021 and there exists no irregularity in the same.

8. In view of the fact that the petitioner did not possess the requisite eligibility criteria for being considered for the post of Assistant Headmaster, the

contentions raised by the petitioner do not merit acceptance.

9. Accordingly, the writ petition stands dismissed. However, there would be no order as to costs.

JUDGE_

Comparing Assistant