

GAHC010183842021



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

Case No. : WP(C)/6201/2021

SANDHYA RANI DEVI
W/O SRI BASUNDHAR SARMAH,
PGT IN POLITICAL SCIENCE IN BEZERA ANCHALIK JR. COLLEGE/BEZERA
SR. SECONDARY SCHOOL, RESIDENT OF VILLAGE BETHAN, PO DUMUNI
CHOWKI,
DIST KAMRUP (R) ASSAM, 781121

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR,
GUWAHATI 781006

2:THE COMMISSER AND SECRETARY
FINANCE DEPARTMENT
GOVT. OF ASSAM
DISPUR GUWAHATI 781006

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM. KAHILIPARA
GUWAHATI 781019

4:THE INSPECTOR OF SCHOOLS

KAMRUP (R) DISTRICT CIECLE
DADARA
DIST KARMUP(R) ASSAM 78110

Advocate for the Petitioner : MR. S CHAUHAN

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 21.06.2024

Heard Mr. S.Chauhan, learned counsel for the petitioner. Also heard Ms. P.Das, learned Standing Counsel, Education Department, Assam.

2. The petitioner in the present proceeding has raised the grievance with regard to the inaction on the part of the respondent authorities in not authorizing to her one advance increment for acquiring the B.Ed Degree while she was in service. As projected in the writ petition, the petitioner was appointed as Junior Lecturer in Bezera Anchalik College by its governing body on 10.09.1989. The said junior college was brought under the deficit grants-in-aid system on 01.02.2001. Thereafter, vide an order dated 18.03.2014, the services of the petitioner herein was regularized with effect from 16.09.1989.

3. It is the contention of the petitioner herein that with due permission she had proceeded to undergo B.Ed course from the Baihata Chariali B.Ed College and on conclusion of the same she was awarded the B.Ed degree by the Gauhati University in the year 2000. The petitioner contends that having acquired the higher qualification, she was entitled to an advance increment in terms of the office memorandum dated 07.03.1998.

4. The Government of Assam in the Secondary Education Department vide a Notification dated 22.10.2014, in view of the amendment as affected to the Assam Secondary Education (Provincialised Services Rules 2003) in the year

2012 making the B.Ed degree as one of mandatory qualification for recruitment to the post of Assistant Teacher, had withdrawn the advance increment hitherto before authorized for acquiring the B.Ed Degree. Persons similarly situated like the petitioner herein being aggrieved by the Notification dated 22.10.2014 had assailed the same by way of instituting the writ petition being WP(C) No. 6241/2015 before this court. This court vide order dated 16.02.2016 was pleased to dispose of the said writ petition by interfering with the Notification dated 22.10.2014.

5. Thereafter, the Director of Secondary Education, Assam by the communication dated 21.07.2016 proceeded to lay down the parameters for authorizing the said advance increment for acquiring B.Ed degree. In terms of the said communication dated 21.07.2016, a teacher who had joined her service before 03.07.2012 and on acquiring B.Ed Degree from a University Grants Commission/NCTE recognized B.Ed College would be entitled to the advance increment.

6. It is the contention of the petitioner herein that she having satisfied the eligibility criteria and having acquired her B.Ed degree way back in the year 2000 before even the 2003 Rules was brought in force, she would be entitled to the said advance increment, however, the same having not authorized to her, she has instituted the present proceeding.

7. The materials brought on record reveal that a dispute was raised as to whether the petitioner had acquired her B.Ed degree from a B.Ed college recognized by the NCTE and accordingly the petitioner had by way of filing an additional affidavit clarified the matter and the materials brought on record in the said additional affidavit reveals that the time when the petitioner was pursuing her B.Ed course in the said Baihata Charliali B.Ed. college and the date

on when she had acquired her B.Ed qualification, the said college was within the purview of the National Council of Teachers Education and the courses were being so imparted therein in terms of the permission granted by the said authority .

8. The B.Ed degree as obtained by the petitioner having been found to have been obtained from an institution recognized by the NCTE, and the petitioner having acquired the said degree before the coming into force the Act of 2003, it is to be noted that the B.Ed Qualification so acquired by the petitioner was a higher qualification than that was mandated at that relevant point of time for being recruited to the post of Assistant Teacher.

9. In the above view of the matter, the Director of Secondary Education, Assam is now directed to take into account the facts as narrated herein above and thereafter to authorize to the petitioner the advance increment for having acquired the B.Ed degree in the year 2000. The consequential financial benefits that would now accrue to the petitioner would now be computed by the Director of Secondary, Assam and released to the petitioner within a period of 3 months from the date of receipt of a certified copy of this order. The revision of pay so occasioning on account of the authorizing to her an advance increment, would also mandate a revision of her pension and pensionary benefits, accordingly the benefits as now becoming due to the petitioner shall be so computed by the Director of Pension, Assam and released to the petitioner, on a proposal in this connection be forwarded by the Director of Secondary Education, Assam.

10. The petitioner for the purpose of facilitating the Director of Secondary Education, Assam in processing the matter shall submit a representation before the Director of Secondary Education, Assam and bring thereon all requisite particulars for authorizing to her the advance increment for acquiring her B.Ed

degree while in service.

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

JUDGE

Comparing Assistant