

GAHC010191332024



2024:GAU-AS:13015-DB

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

Case No. : WA/336/2024

DR JIBENDU DUTTA
S/O- LATE MAKHAN LAL DUTTA, SENIOR LECTURER, DISTRICT
INSTITUTE OF EDUCATION AND TRAINING, CACHAR, UDHARBOND,
R/O- FLAT NO. 3E, THE PEARL LINK VIEW, 1ST LINK ROAD, SILCHAR,
DIST.- CACHAR, ASSAM, PIN- 788006

VERSUS

1: THE STATE OF ASSAM AND ANR REPRESENTED BY THE SECRETARY,
TO THE GOVT. OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION,
(ELEMENTARY EDUCATION), DISPUR, GUWAHATI, ASSAM, PIN- 781006

2: THE DIRECTOR OF SCERT
ASSAM KAHILIPARA GUWAHATI 78101

For the Appellant(s) : Mr. B. Purkayastha, Advocate.

For the Respondent(s) : Mr. R. Majumdar, Standing Counsel, Education (Elementary)
Department for respondent No.1.
: Mr. P. Nayak, Standing Counsel, SCERT for respondent No.2.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

20.12.2024
(Vijay Bishnoi, CJ)

This writ appeal is preferred on behalf of the appellant being aggrieved with the judgment & order dated 29.08.2024 passed by the learned Single Judge in WP(C) No.4963/2023. By the aforesaid judgment & order, the learned

Single Judge has also disposed of WP(C) No.4255/2023.

The appellant/writ petitioner raised grievance before the Writ Court to the effect that the respondents had illegally denied him opportunity of promotion for the post of Principal, DIET and granted promotion to the person, who were junior to him and were also not having the requisite qualification for promotion on the post of Principal, Diet.

The learned Single Judge, after taking into consideration the arguments made on behalf of the counsel for the parties, has come to the conclusion that the claim of the appellant/writ petitioner that the junior persons were provided appointment, is not tenable, because in the Final Gradation Lists dated 27.11.2024 and 31.05.2023, the names of the private respondents in WP(C) No.4255/2023 were above the appellant/writ petitioner. It is contended that the private respondents cannot be treated as junior to the appellant/writ petitioner in view of the Final Gradation Lists dated 27.11.2024 and 31.05.2023.

Having considered the same, we are of the view that the learned Single Judge has not committed any illegality in concluding that no person junior to the appellant/writ petitioner had been promoted on the post of Principal, DIET.

So far as the argument of the appellant/writ petitioner to the effect that the persons who were promoted on the post of Principal, DIET were not having the requisite qualification is concerned, the learned Single Judge has taken into consideration the provisions of the Assam District Institute of Education & Training Service Rules, 2010 (hereinafter to be referred as the "Rules of 2010") and has concluded that as per the said Rules, the private respondents are possessing qualification for promotion on the post of Principal DIET.

The learned Single Judge has negated the contention of the appellant/writ petitioner to the effect that being a Ph.D. holder, he is entitled to be given preference over the private respondents who were not holding the said qualification. The learned Single Judge has observed that as per the Rules of 2010, Ph.D. is not the required qualification for promotion on the post of Principal, DIET.

The other contention of the appellant/writ petitioner to the effect that the qualification prescribed in the Rules of 2010 is repugnant to the NCTE Notifications and Guidelines is also rejected because the validity of the provisions of the Rules of 2010 are not under challenge.

Hence, we do not find any case for interference in the impugned judgment & order passed by the learned Single Judge. Accordingly, the writ appeal stands dismissed.

However, the appellant/writ petitioner is free to make a separate challenge to the validity of the Rules of 2010, if advised so.

JUDGE

CHIEF JUSTICE

Comparing Assistant