

GAHC010195832023



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

Case No. : WP(C)/5219/2023

MD. ABED ALI
S/O LATE ASRAB ALI, VILL-MARICHA PATHAR, P.O.-KHARDHARA, P.S.-
BARPETA, DIST-BARPETA (ASSAM), PIN-781352

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE STATE LEVEL SCRUTINY COMMITTEE
REPRESENTED BY THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM KAHILIPARA GUWAHATI-19

3:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI-19

4:THE JOINT DIRECTOR OF HEALTH SERVICES
BARPETA ASSAM PIN-78130

Advocate for the Petitioner : MR. M ALI
Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 03.01.2024

Heard Mr. M. Ali, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Elementary Education Department, appearing on behalf of

respondents No. 1 to 3.

The petitioner had applied in pursuance of the advertisements, dated 11.02.2023 and 17.02.2023, for the post of Assistant Teacher of LP Schools. The petitioner had so applied against the quota prescribed for Persons with Disabilities(PwDs) by relying on a disability certificate issued in his favour by the authority competent to do so. The petitioner thereafter participated in the selection process. However, his name not being published in the provisional merit list, the petitioner has approached this Court.

Mr. Talukdar, learned standing counsel, Elementary Education Department, in terms of the O.M. dated 21.05.2022, has submitted that in paragraph No. 5 therein, liberty was granted to the employer to carry a verification/re-verification of the physically handicapped status of the selected candidates.

Mr. Talukdar, learned standing counsel, Elementary Education Department, has produced before this Court, a copy of the medical verification report of the Persons with Disabilities (PwDs) candidates who had applied for the post of teachers and therein, it has been reflected that on re-verification, the disability status of the petitioner was found to be 10% which falls below the benchmark of 40%.

The provision of the said clause being relevant, is quoted hereinbelow:

"5. CERTIFICATE OF DISABILITY:

A person who wants to avail the benefits of reservation will have to submit a certificate of disability issued by a Competent Authority. Such certificate in the event of selection of such person for any post, will be subject to such verification/re-verification as may be decided by the competent authority."

The said conclusion reached by the Medical Board in terms of the said O.M. dated 21.05.2022, is not under challenge in the present proceeding.

Accordingly, Mr. Talukdar, learned standing counsel, Elementary Education Department, is hereby directed to submit a copy of the communication, dated 12.06.2023, along with the enclosures, to Mr. Ali, learned counsel for the petitioner, during the course of the day.

The petitioner is at liberty to challenge the conclusion arrived at by the Medical Board, which is available as Annexures to the Communication, dated 12.06.2023, by way of filing an appropriate application before the competent authority, if so advised.

The writ petition stands disposed of with the above directions.

JUDGE

Comparing Assistant