

GAHC010223472021



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

Case No. : WP(C)/7225/2021

RUNU BEZBORUAH
W/O SRI RADHAKRISHNAN DIHINGIA, R/O C.D. ROAD, WARD NO. 4,
P.O. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM-787001

VERSUS

1: THE STATE OF ASSAM AND 3 ORS. REP. BY THE COMMISSIONER AND
SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY EDUCATION DEPTT.
DISPUR, GUWAHATI-781006

2: THE UNDER SECRETARY THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT. DISPUR GUWAHATI-781006

3: THE DIRECTOR ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI-19

4: THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR NORTH LAKHIMPUR ASSAM 78700

Advocate for the Petitioner : MR. K SINGHA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 22-01-2024

Heard Mr. K. Singha, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Education (Elementary) Department, representing all the respondents.

The petitioner, who was appointed on 24.05.1988 as a Statistical Assistant in the Office of the Block Elementary Education Officer, Lakhimpur, has raised a grievance with regard to non-consideration of her case for promotion to the post of Assistant Planning Officer.

The petitioner has contended that although she had acquired the eligibility for being considered for such promotion, her case was not considered by the respondent authorities and from time to time, persons working as Statistical Assistants were promoted to the post of Assistant Planning Officer on pick and chose basis ignoring the seniority of the petitioner.

The petitioner has also filed an additional affidavit in the matter bringing on record an order dated 31.05.2023, wherein after her superannuation occasioning on 31.12.2021, persons working as Statistical Assistants came to be promoted as Assistant Planning Officer.

It is revealed from the materials available in the writ petition that there was no procedure prescribed either by way of a Service Order or by way of a Service Rule prescribing the method of promotion from the rank of Statistical Assistant to that of Assistant Planning Officer. The order dated 31.05.2023 brought on record by the petitioner by way of an additional affidavit reflects that the promotions as effected therein were so done in terms of Para 6(5) of the Assam Elementary Education (Planning and Statistical) Service Order, 2023. It is the said Service Order of 2023, which, for the first time, has prescribed the manner and method for promotion from the rank of Statistical Assistant/ Planning Assistant to that of Assistant Planning Officer. However, the said Service Order having come into operation with prospective effect and by the time the said Service Order was made operative, the petitioner had already superannuated from her services and accordingly, her

case cannot be directed to be considered in terms of the said Service Order.

In view of the said position, the writ petition does not merit acceptance and accordingly, the same is dismissed.

However, considering the categorical averments made by the petitioner in the writ petition that persons were being promoted from time to time from the rank of Statistical Assistant to that of Assistant Planning Officer and persons junior to her were also conferred with the said benefit, the petitioner is given liberty to approach the competent authority disclosing such particulars and praying for consideration of her case for such promotion. In the event such application is made, dismissal of the present writ petition would not be a bar for authorities to consider the same strictly in accordance with law and the procedure prevailing in the matter.

JUDGE

Comparing Assistant