

GAHC010250362022



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

Case No. : WP(C)/7857/2022

DR. DEBESWAR DAS
S/O. LT. TEBHU RAM DAS, R/O. HOUSE NO.6, GANESH BABA PATH,
UDAYAN BIHAR, P.O. SATGAON, DIST. KAMRUP (M), GUWAHATI-71.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, HEALTH
AND FAMILY WELFARE (B) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF MEDICAL EDUCATION

ASSAM
SIXMILE
KHANAPARA
GUWAHATI-22.

3:THE PRINCIPAL

REGIONAL DENTAL COLLEGE
BHANGAGARH
GUWAHATI-32

Advocate for the Petitioner : MR. J M A CHOUDHURY

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 19.02.2024

Heard Mr. J. M. A. Choudhury, learned counsel for the petitioner as well as Mr. D. P. Borah, learned standing counsel, Health Department for the respondents.

2. The petitioner along with 6(six) others were appointed as Dental Surgeon on the recommendation of the APSC by a Notification dated 08th of November, 2000. By another Notification dated 19th of September, 2006 the petitioner on the recommendation of the Assam Public Service Commission was appointed as Demonstrator of Oral & Dental Pathology including Dental Anatomy. The petitioner joined to the post of Demonstrator of Oral & Dental Pathology including Dental Anatomy on 20.09.2006. While serving as Demonstrator, the petitioner took study leave of 3(three) years which was approved by the Government of Assam for pursuing MDS Degree Course (Oral Pathology, Microbiology & Forensic Odontology) at Magadh University, Bodh Gaya, Bihar. Thereafter, petitioner completed the MDS Course on 16.08.2017 and join back to his previous post of Demonstrator in the Department of Oral Dental Pathology and Dental Anatomy on 16.06.2017. The said joining report of the petitioner as Demonstrator was forwarded by the Director of Medical Education, Assam to the Principal, Secretary to the Govt. of Assam, Health and Family Welfare Department by forwarding letter dated 31.07.2017.

3. The petitioner after obtaining the MDS Degree made a representation dated 17.08.2017 to the Commissioner, Secretary to the Govt. of Assam, Health and Family Welfare (B) Department requesting for up-gradation of the post of Tutor to Lecturer of Oral & Dental Pathology including Dental Anatomy on the ground that he has obtained the MDS Course in the specialty of Oral Pathology, Microbiology & Microbiology under Magadh University, Patna in the year 2017. Consequent thereto, the petitioner by a Notification dated 23.02.2021, was promoted as Lecturer, RDC Guwahati from the post of Tutor, RDC Guwahati.

4. The grievance of the petitioner is that the petitioner has not been designated as Lecturer in terms of Notification dated 31.10.2011, issued by the Health and Family Welfare Department w.e.f 16.08.2017 i.e., the date on which he obtained the MDS Degree and to enable him to participate in the selection process for promotion to the post of Reader.

5. The Notification dated 31.10.2011, provides that the post of Resident/Surgeons/Demonstrators/Registrars are equivalent post. The said three posts of Surgeon/Demonstrator/Registrar has been re-designated into Lecturer and Tutor. The scale pay of Lecturer and Tutor is the same, however, the only difference is in the academic grade pay (AGP), wherein, for Lecturer it is Rs.7,000/- and for Tutors it is Rs. 6,000/-. As regards the post of Tutor, it is also provided that persons joining the service without PHD/MDS/M.Phil shall be appointed to the lower level of AGP of Rs.6,000/- and shall be eligible to the higher level of AGP of Rs. 7,000/-, after completion of 5 years or acquiring MDS/PhD/M.Phil, whichever is earlier. This would indicate that the moment a Tutor acquires MDS Degree, the post of Tutor would have to be re-designated as

Lecturer and he/she become eligible for Higher AGP of Rs.7,000/-.

6. In the case in hand, as it is undisputed that the petitioner obtained his MDS degree on 16.08.2017, his post of Tutor should have been re-designated as Lecturer w.e.f 16.08.2017 as the petitioner become eligible for the Higher AGP of Rs. 7,000/- on 16.08.2017. In that view of the matter, the respondents are directed to re-designate the post of Tutor held by the petitioner as Lecturer w.e.f 16.08.2017 forthwith.

7. The learned counsel for the petitioner submits that the petitioner is eligible to be promoted to the post of Reader inasmuch as he has completed 5 years of service at AGP of Rs.7,000/- subject to the DCI guidelines.

8. As regards promotion to the post of Reader, this Court is of the considered opinion that the DPC is the appropriate authority to consider the case of the petitioner for promotion to the post of Reader. Accordingly, as and when the DPC is held for promotion to the post of Reader, it is directed that the case of the petitioner should also be considered, considering the fact that the post of Tutor held by the petitioner has already been re-designated as Lecturer w.e.f 16.08.2017.

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

JUDGE

Comparing Assistant