

GAHC010259792023



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

Case No. : WP(C)/6739/2023

FAZAL ALI
S/O- KURMAN ALI, VILLAGE- TARANGAPUR PT-I, P.O. AND P.S. CHAPAR,
DISTRICT- DHUBRI, ASSAM, PIN- 783371

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY), DISPUR,
GUWAHATI-06

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

3:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN OF DISTRICT
SCRUTINY COMMITTEE DHUBRI
P.O. DHUBRI DISTRICT- DHUBRI ASSAM PIN- 783301

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER-CUM- MEMBER
SECRETARY OF DISTRICT SCRUTINY COMMITTEE DHUBRI
P.O. DHUBRI DISTRICT- DHUBRI ASSAM PIN- 783301

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHAPAR-SALKOCHA
P.O. CHAPAR
DISTRICT- DHUBRI
ASSAM
PIN- 78337

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : SC, ELEM. EDU

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

ORDER

Date : 09.02.2024

Heard Mr. M. R. Khandakar, learned counsel for the petitioner. Also heard Mr. Bedanta Kaushik, learned standing counsel, Elementary Education Department, appearing on behalf of Respondents No. 1, 2, 4 & 5; and Mr. B. Deuri, learned Government Advocate, appearing on behalf of Respondent No. 3.

2. The grievance raised by the petitioner in the present proceedings, pertain to the denial to him of the benefit of provincialization of his services as a Social Studies Teacher/Tutor in Tarangapur Koran Jyoti M.E. Madrassa.

The petitioner was appointed as an Assistant Teacher in Tarangapur Koran Jyoti M.E. Madrassa (hereinafter referred to as the School) on 12.02.2008 and he had joined his services on 13.02.2008. The school at that relevant point of time, was in the venture stage. The services of the petitioner along with other serving teachers in the said school was approved by the District Elementary Education Officer, Dhubri, vide his order, dated 04.03.2008.

3. The cases of the serving teachers in the school came to be considered for provincialization of their services under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and the particulars of the serving teachers having been furnished by the Headmaster of the same, the same came to be placed before the District Level Scrutiny Committee (DLSC), Dhubri. The District Level Scrutiny

Committee(DLSC), Dhubri, upon consideration of the particulars of the serving teaching staff of the school, proceeded to make its recommendations, as follows:

Details of Tutors eligible for provincialization:

Sl. No	Name of teachers	Present post	Subject taught
1.	Pashan Ali Ahmed	Assistant Teacher	Mathematics & Science
2.	Fazal Ali	Assistant Teacher	Social Science
3.	Aleya Khatun	Assistant Teacher	Language

Details of Teacher/Tutor who is not eligible for provincialization due to non-availability of required enrollment:

Sl. No	Name of teacher/Tutor	Present post	Subject taught
1.	Motleb Ali Mondal	Headmaster	Language

4. From the above, it is seen that in terms of the provisions of Section 3(XI) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, the name of the petitioner was recommended for provincialization of his services against the post of Social

Studies Teacher. It is to be noted that in terms of Section 3(XI) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, there is a requirement of minimum 3(three) Teachers/Tutors in a Upper Primary School with at least 1(one) for: (i) Science & Mathematics Subjects; (ii) Social Studies Subject; and (iii) Language Subject.

5. Accordingly, it is seen that the recommendations as made in respect of the school by the District Level Scrutiny Committee (DLSC), Dhubri, was so made in terms of the provisions of Section 3(XI) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

6. The said recommendations as made by the District Level Scrutiny Committee (DLSC), Dhubri, in respect of the school, came to be placed before the State Level Scrutiny Committee (SLSC). The State Level Scrutiny Committee(SLSC), on verification of the matter, proceeded to make its recommendations in favour of provincializing the services of the following teachers:

Sl. No	Name of teachers	Present post	Subject taught
1.	Motleb Ali Mondal	Headmaster	Language
2.	Pashan Ali Ahmed	Assistant Teacher	Science
3.	Aleya Khatun	Assistant Teacher	Language

7. The State Level Scrutiny Committee(SLSC) while making its recommendations, did not include the name of the petitioner therein and proceeded to recommend for provincialization of the services of 2(two) Teachers against the Language Subject and 1(one) Teacher against the Mathematics & Science Subjects.

8. The services of the serving Teachers of the school as recommended by the State Level Scrutiny Committee(SLSC) came to be provincialized w.e.f. 01.01.2021. However, what is to be noticed here is that before her services could be provincialized w.e.f. 01.01.2021, Aleya Khatun(Language Teacher) unfortunately expired on 15.11.2019.

The said aspect of the matter was brought to the notice of the District Elementary Education Officer, Dhubri, by the Block Elementary Education Officer, Chaparsalkocha Education Block vide his communication, dated 08.02.2021. It is contended that the said position was thereafter appraised to the Director of Elementary Education, Assam, however, no steps have been taken for having the case of the petitioner considered for provincialization.

9. The facts and circumstances as emanating in the matter discloses the fact that the State Level Scrutiny Committee (SLSC) had made its recommendation with regard to the serving Teachers in the school, ignoring the mandate of Section 3(XI) of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, resulting in prejudice being caused to the petitioner. The post as created for Late Aleya Khatun w.e.f.

01.01.2021 has not been utilized in-as-much as she had expired before such date i.e. on 15.11.2019 and as such, the said post must be deemed to be available.

10. In view of the above conclusions, this Court now requires the Director of Elementary Education, Assam, to take on record, the representation as preferred by the petitioner on 25.10.2023 and place the case of the petitioner before the State Level Scrutiny Committee(SLSC) for consideration of his case for provincialization against the post of Social Studies Subject in the school as recommended by the District Level Scrutiny Committee (DLSC), Dhubri.

11. The Director of Elementary Education, Assam, while placing the case of the petitioner before the State Level Scrutiny Committee(SLSC), shall apprise the said Committee of the developments taking place in the matter after it had made its recommendations with regard to the serving Teachers of the school, in question, including the death of Aleya Khatun (Language Teacher) before her services could be provincialized as well as a copy of this order and thereafter, require the State Level Scrutiny Committee(SLSC) to verify the particulars of the petitioner.

12. The State Level Scrutiny Committee(SLSC) upon consideration of the case of the petitioner in the light of the recommendations as made by the District Level Scrutiny Committee (DLSC), Dhubri, proceeds to recommend the case of the petitioner for provincialization of his services, the Director of Elementary Education, Assam, shall take appropriate steps for implementing such

recommendations and provincialize the services of the petitioner w.e.f. 01.01.2021 with all consequential benefits of pay, seniority, etc..

13. In the event, the State Level Scrutiny Committee(SLSC) finds that the case of the petitioner cannot be recommended for provincialization of his services; the Director of Elementary Education, Assam, shall issue a speaking order incorporating the reasons as to why the services of the petitioner was not liable to be provincialized and shall communicate the same to the petitioner.

14. The entire exercise as required to be now carried-out in terms of the directions as passed by this Court hereinabove; shall be so carried-out by the respondent authorities and concluded within a period of 3(three) months from the date of receipt of a certified copy of this order.

15. It is to be noted that a post remaining unutilized in the school, in question, the authorities while proceeding to provincialize the services of the petitioner in the school, shall not disturb the provincialization as effected in the case of Motleb Ali and Pashan Ali Ahmed.

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

JUDGE

Comparing Assistant