

GAHC010265972023



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

Case No. : WP(C)/6887/2023

DR. PALLABI SAIKIA
WIFE OF ABHIJIT KAKOTY,
RESIDENT OF FLAT NO. 4C, BLOCK-B, HARA-GAURI APARTMENT,
OPPOSITE ELITE GAS AGENCY, TARAZAN, A.T.ROAD, DISTRICT- JORHAT,
ASSAM, PIN- 785001

VERSUS

1: THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF HIGHER EDUCATION,
DISPUR, GUWAHATI- 781006, ASSAM

2: THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA GUWAHATI- 781019 ASSAM

3: THE DEPARTMENTAL PROMOTION COMMITTEE JHANJI HEMNATH
SARMA COLLEGE P.O. JHANJI DISTRICT- SIVASAGAR PIN- 785683
ASSAM REPRESENTED BY ITS CHAIRMAN

4: THE GOVERNING BODY OF JHANJI HEMNATH SARMA COLLEGE
P.O. JHANJI DISTRICT- SIVASAGAR PIN- 785683 ASSAM REPRESENTED BY
ITS PRESIDENT

5: THE PRINCIPAL JHANJI HEMNATH SARMA COLLEGE
P.O. JHANJI DISTRICT- SIVASAGAR PIN- 785683 ASSAM

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : SC, HIGHER EDU

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

ORDER

Date : 11-01-2024

Heard Mr. M.K. Choudhury, learned senior counsel assisted by Mr. D. Borah, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned standing counsel, Education (Higher) Department, representing the respondent Nos.1 & 2.

The petitioner, by way of instituting the present writ proceeding, has raised a grievance against non-consideration of her case for promotion under the Career Advancement Scheme (CAS) from the grade of Assistant Professor (Stage-I) to Assistant Professor (Stage-II) w.e.f. 29.11.2021 in Jhanji Hemnath Sarma College, Sivasagar.

The petitioner, on making an enquiry with the respondent authorities, was given to understand that her such promotion was not considered on account of the fact that she had not acquired the requisite Academic Performance Indicator (API) Score to qualify for such promotion under the Career Advancement Scheme on the ground that she, during the period of consideration, had availed Maternity Leave and Child Care Leave (CCL). It is to be noted here that both the Maternity Leave and the Child Care Leave were availed by the petitioner with due approval of the respondent authorities.

The petitioner had approached the respondent authorities praying for consideration of her case. However, the same having not materialized into a decision for consideration of the case of the petitioner, she has approached this Court.

During the course of hearing, today Mr. K. Gogoi, learned standing counsel, Education (Higher) Department has placed on record a copy of the

Office Memorandum dated 13.11.2013 issued by the Commissioner & Secretary to the Government of Assam, Higher Education Department, wherein the Guidelines for Career Advancement Scheme (CAS) for promotion of College Teachers have been formulated. The said Guidelines also mandate that the same should be read with Notifications, Amendments and Guidelines issued by the University Grants Commission (UGC) from time to time in this regard.

The University Grants Commission, by a Public Notice dated 05.09.2018, had considered the issue of calculation of Academic Performance Indicator scores of teachers, who had taken different kinds of paid leaves, like Maternity Leave, Child Care Leave, Study Leave, etc., and on consideration, it was decided that such teacher shall be assessed for the remaining period of the duration of the assessment period and the same shall be extrapolated for the entire period of assessment to arrive at a grading of a teacher. The teacher on such leave or deputation as mentioned above shall not be put to any disadvantage for promotion under CAS due to his/her absence from his/her teaching responsibility subject to the condition that such leave/deputation was undertaken with the prior approval of the competent authority following all procedures laid down.

The intent of the said Public Notice dated 05.09.2018 is that the concerned authorities while considering the case of a person, like the petitioner, shall calculate her Academic Performance Indicator score for the period she had served and thereafter, arrive at the final Academic Performance Indicator score by extrapolating the same for the full period in question, which would also include the period of leave. The Guidelines as contained in the Office Memorandum dated 13.11.2013 having mandated that for its implementation the same should be read with the Notifications, Amendments and Guidelines

issued by the University Grants Commission from time to time in this regard and the University Grants Commission vide its Public Notice dated 05.09.2018 having prescribed the manner in which the Academic Performance Indicator score for the period a teacher had spent on different kinds of paid leaves is to be assessed, the case of the petitioner is required to be considered under the Office Memorandum dated 13.11.2013 read with the Public Notice of the University Grants Commission dated 05.09.2018.

It is stated at the bar that the petitioner had availed both the Maternity as well as the Child Care Leave with the prior permission of the competent authority.

In view of the above, the writ petition stands disposed of directing the respondent No.2, i.e. the Director of Higher Education, Assam, as well as the respondent Nos.3, 4 & 5 to process the case of the petitioner for her promotion under the Career Advancement Scheme from the grade of Assistant Professor (Stage-I) to that of Assistant Professor (Stage-II) in the Department of Education in Jhanji Hemnath Sarma College, Sivasagar by following the Office Memorandum dated 13.11.2013 and to calculate the Academic Performance Indicator score of the petitioner including that for the period she was on permitted leave, in accordance with the procedure prescribed in the said Public Notice dated 05.09.2018 issued by the University Grants Commission and thereafter, to promote the petitioner, in the event she satisfies all other eligibility criterion, to the level of Assistant Professor (Stage-II) w.e.f. 29.11.2021 with all consequential benefits of pay, seniority, etc.

The said exercise shall be carried out by the concerned authorities within a period of 3(three) months from the date of receipt of a certified copy of this order. The petitioner, to facilitate the compliance of the directions passed

herein above by the respondent authorities, shall serve a certified copy of this order along with a representation enclosing the Office Memorandum dated 13.11.2013 and the Public Notice of the University Grants Commission dated 05.09.2018 before the respondent No.5, i.e. the Principal of Jhanji Hemnath Sarma College, Sivasagar. The respondent No.5, on receipt of the said representation from the petitioner along with a certified copy of this order, shall initiate the process for compliance of the directions passed herein above in this order.

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

J U D G E

Comparing Assistant