

GAHC010289632023



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

Case No. : WP(C)/7615/2023

JITUMANI SONOWAL
D/O- NAGEN CHANDRA SONOWAL,
CURRENTLY R/O- VILLAGE/ TOWN- F 308,
3RD FLOOR, SUBHAM GREEN APARTMENT,
LOKHRA, GUWAHATI, KAMRUP, ASSAM- 781034.

VERSUS

THE STATE OF ASSAM AND ANR
COMMISSIONER AND SECRETARY,
DEPARTMENT OF ELEMENTARY EDUCATION,
GOVT. OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
(ELEMENTARY) EDUCATION DEPARTMENT
DISPUR
GUWAHATI- 781006
ASSAM

Advocate for the Petitioner : MS S DAS

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

19.04.2024

Heard Ms. S Das, learned counsel for the petitioner. Also heard Mr. B Kaushik, learned standing counsel for the Elementary Education Department, Government of Assam appearing for the respondents.

2. The petitioner herein by way of instituting the present proceedings has made a grievance with regard to the denial meted out to her in depriving her from an appointment against a post reserved for the ST(P) community candidates in pursuance to the recruitment process for the post of Assistant Teacher in the Upper Primary Schools as initiated vide the advertisement dated 30.03.2017.

3. It is the projection made in the writ petition that in pursuance to the said advertisement dated 30.03.2017, the petitioner being eligible in all respects had submitted her candidature for being recruited against any one of the post so advertised and more particularly the post as reserved for ST(P) candidates. However, after having submitted her application and the same having been registered, it dawned on the petitioner that she had registered herself inadvertently as an ST(H) candidate, in lieu of her original caste i.e. ST(P). The petitioner thereafter initiated a process for having the same rectified and it is contended that the respondent authorities had also assured that the same would be so rectified. However, on publication of the provisional select list, it was found that the petitioner was placed under the ST(H) category and it was shown that she had scored a total of 211.74 marks. However, she not being a candidate belonging to the ST(H) community, naturally her case would not be considered as a ST(H) candidate.

4. It is also contended by the petitioner that the cut off marks for the ST(P) category candidates was 208.12 and she having scored more marks than the cut off marks as mandated for the ST(P) category, she was entitled to be appointed against any one of the vacant posts so available and reserved for the ST(P) community candidates. However, on the publication of the final select list on 10.07.2017, it was found that the name of the petitioner neither figured against the posts reserved for ST(H) community candidates nor against those reserved for ST(P) community candidates.

5. It is revealed from the pleadings as available on record that the petitioner had undergone a very harrowing time on account of the problems related to her pregnancy. The petitioner was blessed with a girl child on 27.07.2018, however, unfortunately, the petitioner lost her child on 18.02.2019. The said incident that had occasioned in the life of the petitioner naturally had prevented her from pursuing the matter, in the manner required.

6. The petitioner, thereafter, approached the authorities for a reconsideration of her case and for accommodating her against a suitable vacant post by reckoning her reserved category status i.e. her ST(P) category status. However, the same having not resulted in any favourable response, the petitioner has approached this Court by way of instituting the present proceedings.

7. Although, by the time, the petitioner had instituted the present proceedings, the select list as was prepared had lost its validity, considering the

circumstances, the petitioner had found herself to be in, this Court had proceeded to explore as to whether the petitioner could be accommodated, against any of the vacant posts that were so advertised vide the advertisement, in question, if still lying vacant. In terms thereof, the learned Standing Counsel, Elementary Education Department was directed to receive instruction(s) as to whether the petitioner could be accommodated against any post that formed part of the advertisement in question. In response to the queries made by this Court, in this connection, the Director of Elementary Education Assam vide communication dated 25.01.2024 informed the learned Standing Counsel, Elementary Education Department that the recruitment process in the department is an ongoing one and the vacancies which could not be filled up in the recruitment process held in pursuance to the advertisement dated 30.03.2017 were put up for further recruitment, vide subsequent advertisements dated 11.03.2018, 11.09.2020 and 18.09.2021 and the posts so available were filled up.

8. In view of the above position, there being no vacant post as advertised vide the advertisement dated 30.03.2017 as on date, this Court is not in a position to issue any direction to the respondents towards accommodating the petitioner against any post that was advertised vide the advertisement dated 30.03.2017 by reckoning her as a ST(P) category candidate.

9. It is now contended by Ms. S Das, the learned counsel for the petitioner that the petitioner has again submitted her application for recruitment in pursuance to a recent advertisement issued for filling up of post of Assistant Teacher in the Upper Primary Schools. In the event, the petitioner has made any

such application, the respondents shall consider the same on merits by treating the petitioner to be a ST(P) category candidate. In the event, it is found that the petitioner is over-aged, the petitioner is at liberty to approach the respondent authorities by way of filing appropriate application praying for condonation of her over-age and such application shall be duly considered by the respondent authorities in accordance with the norms in place.

10. With the above observation(s), the present writ petition stands disposed of.

JUDGE

Comparing Assistant