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

Case No. : WP(C)/2610/2025

SRI MRIDUSHMITA CHUTIA AND 2 ORS
W/O SRI PRANAB NEOG

RESIDENT OF NAMTI KARUNASAGAR GAON
PO MICHAJAN
DIST SIVASAGAR
ASSAM 785684

2: SMTI KALPANA GOGOI
D/O SRI NOMAL GOGOI
RESIDENT OF FULL PANISINGA MAJUMATIA GAON
PO FULL PANISINGA
DIST SIVASGAGAR
ASSAM
785685

3: SRI JUGANTAR LAHAN
S/O SRI SUNIL KUMAR LAHON

RESIDENT OF HATIMURIA GAON
PO MORABAZAR
DIST SIVASAGAR
ASSAM 785680

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.

OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR GUWAHATI 06

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
. SECONDARY EDUCATION DEPARTMENT
DISPUR GUWAHATI 06

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM KAHILIPARA GUWAHATI 19

4:THE INSPECTOR OF SCHOOL

SIVASAGAR DISTRICT CIRCLE
SIVASGAR
ASSAM

Advocate for : MR. P J SAIKIA
SR. ADV
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND ORS

BEFORE

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

03/09/2026

Heard Ms. M Nirola, learned counsel for the petitioners and Mr. P P Dutta, learned Standing counsel, Department of School Education.

2. The petitioners by way of instituting the present writ petition have assailed a Gradation List of Graduate Teachers, published vide order dated 29.03.2025, on the ground that the petitioners, although, eligible for being included in the said Gradation List, were excluded there from and no reason for the purpose, was so assigned.

The petitioners have further prayed for their inclusion in the Final Gradation List of Graduate Teachers for the District of Sivasagar, for consideration of their cases for promotion to the vacant posts of Headmaster/Headmistress available in the said District, by assigning to them seniority w.e.f. the date of appointment as Assistant Teacher (Graduate) on fixed pay basis.

3. The petitioners in the present writ petition have projected that in pursuance to an advertisement dated 28.12.1996, the petitioners had applied for the posts of Assistant Teacher (Graduate) in various High/Higher Secondary Schools. On the selection of the petitioners against the posts of Graduate Teacher, the petitioners were vide orders dated 27.03.2001, 30.03.2001 and 27.03.2021, respectively, appointed as Assistant Teachers. The petitioners, thereafter, continued in their services and for the purpose, had received fixed pay. Proceedings came to be instituted before this Court by the petitioner No. 1 and other similarly situated persons, by way of instituting writ petition, being WP(C) No. 763/2013, praying amongst others for grant of regular scale of pay, w.e.f. the date of their respective joining.

A Co-ordinate Bench of this Court vide order dated 16.12.2016, was pleased to dispose of the said writ petition, with a direction to the authorities for releasing to the petitioners, therein, their pay and allowances in the regular scale of pay, w.e.f., the date of their joining.

The State respondents, however, had assailed the order dated 16.12.2016 passed in WP(C) No. 763/2013, before the Division Bench of this Court, by way of instituting a writ appeal, being WA No. 24/2017. The writ appeal, however, was withdrawn with liberty to approach the Writ Court by way of filing a review petition.

The review petition, having been filed, on a consideration, came to be dismissed. Thereafter, the State respondents had again approached the Division Bench of this Court, by way of instituting a writ appeal, being WA No. 233/2017. The said

writ appeal was dismissed by the Division Bench, vide order dated 14.06.2019.

In pursuance to the dismissal of the said writ appeal, being WA No. 233/2017, the respondent authorities issued a Notification dated 26.02.2021 and therein, authorized to the petitioners and other similarly situated persons the Graduate Scale of Pay. It was further stipulated in the said Notification dated 26.02.2021, that the petitioners, were being extended with the said scale of pay notionally w.e.f. the date of their respective joining in service. The petitioners now having been granted a notional fixation of their pay and allowances in the Graduate Scale of Pay, from the date on which they were so appointed as Assistant Teacher (Graduate) on fixed pay basis, the period of service rendered by the petitioners w.e.f. their date of joining, which had occasioned in 2001, was contended to be required to be construed as service rendered as a Graduate Teacher.

The petitioners have contended that they have the requisite eligibility criteria as mandated under the provisions of Rule 14 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018, for being considered for promotion to the vacant posts of Headmaster/Headmistress, available in provincialised High Schools in the district of Sivasagar.

In a Draft Gradation List of Graduate Teachers, working in provincialised Secondary Schools in the District of Sivasagar, the names of the petitioners were included, however, they were assigned seniority position only w.e.f. 26.02.2021, i.e., the date of issuance of the Notification, extending to the petitioners the benefit of Time Scale of Pay. The petitioners, being aggrieved, had raised objections thereon and had prayed for assigning to them seniority in the said Gradation List w.e.f. the date they were now extended with the benefit of Graduate Scale of Pay. Thereafter, a subsequent Draft Gradation List was published on 10.03.2025, however, herein, the names of the petitioner did not find mentioned. The objection submitted by the petitioners in the matter was not considered and a final Gradation list of Graduate

Teachers was published on 29.03.2025, excluding the names of the petitioners therefrom.

The names of the petitioners being excluded from the Gradation List, so prepared for the purpose of considering the cases of eligible Graduate Teachers for promotion to the cadre of Headmaster/Headmistress, the petitioners have instituted the present writ petition.

4. I have heard the learned counsel for the parties and also perused the materials available on record.

5. It is an admitted position that the petitioners, herein, were initially appointed as Assistant Teachers (Graduate) on a fixed pay basis, in pursuance to a process of selection. Thereafter, in terms of the directions passed by this Court, requiring the respondent authorities to authorize to the petitioners their pay and allowances in the Graduate Scale of pay w.e.f. the date they had joined their respective services as Assistant Teachers (Graduate) on fixed pay basis, the Government of Assam in the Secondary Education Department, vide Notification dated 26.02.2021, had authorized to the petitioners' their benefit of regular time scale of pay as per the ROP Rules, holding the field. Such authorization of time scale of pay was so made effective notionally w.e.f. the date the petitioners had joined their respective services as an Assistant Teacher (Graduate) on fixed pay basis, way back in the year 2001.

6. The manner in which recruitment to the posts of Headmaster/Headmistress is to be followed is set out in the provisions of Rule 14 of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018. In terms of the provisions of Rule 14(2)(b), a teacher for being considered for promotion to the post of Headmaster/Headmistress must have at least 10 years of teaching experience as a Graduate Teacher.

7. The petitioners in the present writ petition, having now been authorized

Graduate Scale of Pay, albeit, notionally w.e.f. 2001, the period of service rendered by the petitioners w.e.f. their initial date of appointment as Assistant Teachers (Graduate) on fixed pay basis, have now to be construed to have been so rendered as a Graduate Teacher and accordingly, the petitioners are found to have satisfied the requisite eligibility criteria of having 10 years teaching experience as a Graduate Teacher for the purpose of being considered for promotion to the posts of Headmaster/Headmistress.

8. It is also to be noted that in terms of the proviso to Rule 14(1), the seniority of a Graduate Teacher is determined from the date of receiving Graduate Scale of Pay by such teacher. The procedure prescribed for promotion against the vacant posts of Headmaster/Headmistress available in provincialised High Schools of a District, mandates the preparation of a District-Wise-Seniority list of all Graduate Teachers working in the said district, in various provincialised schools. The respondent authorities have published a final Gradation List on 29.03.2025 in this connection and had included therein, the names of the Graduate Teachers, working in Secondary Schools in the district of Sivasagar. However, the names of the petitioners have not been included in the said list, although, therein, names of Graduate Teachers drawing Graduate Scale of Pay after 2001, has also been included.

9. In view of the above discussion, the petitioners, herein, being found by this Court to be included within the term "Graduate Teachers" w.e.f. 2001, in pursuance to the issuance of the Notification dated 26.02.2021, authorizing to them their pay and allowances in the time scale of pay, prescribed for Graduate Teachers in a High School and the same being so authorized to the petitioners with notionally w.e.f. the date of their joining as Assistant Teachers (Graduate), this Court is of the considered view that the petitioners are also eligible to be included at the appropriate place in the Final Gradation List of Graduate Teachers, as published vide Notification dated 29.03.2025.

10. Accordingly, the Director of Secondary Education, Assam and the Inspector of Schools, Sivasagar are directed to incorporate the names of the petitioners, herein, at

the appropriate place, in the final Gradation List, as published on 29.03.2025, by reckoning the date of their initial joining in service as an Assistant Teacher (Graduate) on fixed pay basis and thereafter, to publish a revised Final Gradation List.

11. At this stage, it is to be noted that this Court vide order dated 16.05.2025, had directed for maintenance of status quo with regard to the process of selection in respect of the posts of Headmaster/Headmistress, lying vacant in Amgoorie Halowating Mazdur High School, Dopdar High School and Namti Girls' High School in Sivasagar District.

12. Considering the above aspects of the matter, it is directed that the filling up of the vacant posts of Headmaster/Headmistress in the above noted three schools and/or any other vacant posts of Headmaster/Headmistress, available in pursuance to the recruitment process involved in the present writ petition, shall be so initiated only after the publication of a revised Gradation list, including the names of the petitioners, therein, in terms of the directions passed, hereinabove.

13. In view of the said position, it is directed that the process for filling up of the vacant posts of Headmaster/Headmistress, in various Secondary Schools in the district of Sivasagar, be now proceeded with only after a fresh Gradation List is so published, incorporating, therein, the names of the petitioners, in terms of the directions passed hereinabove.

14. It is further clarified that the promotional exercise shall be carried out, strictly in accordance with the provisions of Rule 14 of the Rules of 2018 and the directions passed by this Court for inclusion of the petitioners' name in the Gradation List, shall not be construed to be a direction for promotion of the petitioners and the petitioners shall be entitled for such promotion only by virtue of their seniority in the Gradation List.

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

JUDGE

Comparing Assistant