GAHC010241632017

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

Case No. : WP(C)/6033/2017

KUSHAL MAL
S/OLT. KARNA SINGH MAL R/OV ILL- RAMPUR TEA ESTATE P.O. DALU P.S. BORKHOLA DIST. CACHAR, ASSAM PIN - 788110

VERSUS

THE STATE LEVEL COMMITTEE and 4 ORS.
REP. BY ITS CHAIRMAN, and CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GUWAHATI -6.

2:THE STATE OF ASSAM

3:THE DISTRICT ELEMENTARY EDUCAITON

4:THE DISTRICT LEVEL COMMITTEE

5:THE DEPUTY INSPECTOR OF SCHOOL

Advocate for the Petitioner : MR.S CHAUHAN

Advocate for the Respondent : SC, ELEMENTARY EDUCATION

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 26-11-2020

Heard Mr. S. Chauhan, learned counsel for the petitioner. Also heard Mr. B. Deuri, learned counsel for the respondents No. 1 and 4, Mr. B. Kaushik, learned counsel for the respondent Elementary Education Department of the Govt. of Assam.

2. The father of the petitioner who was serving as Head Teacher/Head Pandit in the 1579 No. Rampur Hindi School died in harness on 27.12.2017. On his death, the petitioner submitted an application for compassionate appointment on 01.07.2013. The said application of the petitioner was considered by the DLC of Cachar district in its meeting held on 09.06.2014 and had recommended the petitioner for, apparently, the post of Assistant Teacher.

3. The recommendation of the DLC clearly takes note of that the qualification of the petitioner is HSSLC and intermediate and he had secured 62% marks in HSSLC. The recommendation of the petitioner was placed before the SLC in its meeting held on 16.06.2016, but the recommendation made by the DLC in favour of the petitioner was rejected by stating the ground of being under qualified/lack of document/certificate.

4. Being aggrieved, the present writ petition is instituted against the rejection by the SLC. We have gone through the annexures annexed to the writ petition and arrive at our conclusion that the appropriate document as regards the qualification of the petitioner is available on record. Further even the DLC had recorded that the petitioner had secured 62% marks in HSSLC. The post for which the petitioner was recommended is stated to be a post of Assistant Teacher which again has the eligibility qualification of HSSLC.

5. From the aforesaid, it can be concluded that the SLC had arrived at a wrong conclusion to reject the recommendation made in favour of the petitioner on the ground of being under qualified/lack of document/certificate. If for some reason, the appropriate certificate are not before the SLC, the SLC always also asked the authorities or the petitioner to provide it with the required copies of the certificate but once the DLC had arrived at its satisfaction it has to be understood that the required testimonials were before the authorities when such decision was taken.

6. From the aforesaid point of view, the rejection of the petitioner by the SLC in its meeting held on 16.06.2016 is set aside. The matter is now remanded back to the SLC to be placed before the next available SLC for a fresh consideration by taking on record that the petitioner has passed HSSLC with 62% marks as arrived at by the DLC and thereafter reconsider it in the manner as may be required under the law.

7. The recommendation of the DLC is not clear as to against which post the petitioner was recommended. If he was recommended against the post of teacher, he may be considered for the same. If he recommended against any other post, the petitioner may be considered for the same.

9. In any view of the matter, the SLC to examine the claim of the petitioner against which post for which he may be duly qualified for.

10. But on the other hand, if the recommendation by the DLC was for the vacant post of Assistant Teacher, the SLC may consider against such post and only thereafter examine the possibility whether the petitioner is to be considered against any other post.

Writ petition stands disposed of.

JUDGE

Comparing Assistant