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

Case No. : WA/195/2023

JYOTIRUPA SARMA
W/O. SRI HITEN SHARMA, R/O. HOUSE NO. 41, NEAR SHIV MANDIR, PUB SARANIA TINIALI, BYLANE NO. 9, RAJGARH ROAD, GUWAHATI, ASSAM, PIN- -781016, PRESENTLY SERVING AS ASSISTANT PROFESSOR IN ANTHROPOLOGY DEPTT., ARYA VIDYAPEETH COLLEGE, GUWAHATI.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, HIGHER EDUCATION DEPTT., DISPUR, GHY.-781006.

2:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVT. OF ASSAM
DEPTT. OF HIGHER EDUCATION
DISPUR, GUWAHATI, ASSAM-781006.

3:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA, GUWAHATI
ASSAM, PIN-781019.

4:THE PRINCIPAL
ARYA VIDYAPEETH COLLEGE
SARABHATI
GUWAHATI, ASSAM
PIN- 781008.

5:GOVERNING BODY
ARYA VIDYAPEETH COLLEGE
SARABATHI
GUWAHATI
ASSAM- 781008

For the Petitioner/Appellant(s) : Mr. K. N. Choudhury, Sr. Advocate
Mr. R.R. Kakati, Advocate

For the Respondent(s) : Mr. K. Gogoi, SC, Higher Education
Mr. S. Das, Advocate

– B E F O R E –
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

19.11.2026
(Ashutosh Kumar, CJ)

We have heard Mr. K.N. Choudhury, learned senior Advocate for the appellant, and Mr. K. Gogoi, learned Standing Counsel, Higher Education Department, Assam, for the respondents/State of Assam and others.

The challenge in this appeal is to the judgment and order dated 12.05.2023, passed by a learned Single Judge of this Court in WP(C) No. 5779/2016, whereby only one of the prayers of the appellant/writ petitioner has been allowed, namely, granting her legitimate increment in salary as per law, after she having obtained Ph.D. degree and also having cleared NET, but the other prayers regarding setting aside and quashing the condition to clear the NET/SLET as well as regularizing her services from the date of the advertisement in question was issued, have been rejected.

A brief statement of facts would obviate the necessity of getting any deeper into the matter.

An advertisement was issued for appointment of Assistant

Professor in the department of Physical Anthropology at Arya Vidyapeeth College, Guwahati. The appellant had applied against the afore-mentioned advertisement. It may be noted that in the advertisement, there was no stipulation of any requirement of a candidate having cleared NET/SLET or of having acquired Ph.D. degree.

Though the appellant was recommended for being appointed, but the Governing body of the college was not agreeable and, in fact, decided to appoint a person, who ranked second to the appellant.

Litigation ensued, whereafter, finally, under the directions of this Court, the appellant was appointed to the post of lecturer in the year 2006. At the time of her appointment, she was made aware of the new requirement of clearing NET/SLET within two years of the appointment and also of the incentives in the event of her acquiring Ph.D. Degree.

Since the appellant did not meet either of the requirements, she was not granted the UGC pay scale for several years. Thus, the other consequential benefits, like regular increments, seniority from the joining date, or promotional avenues were not afforded to her. She was treated as a probationer on a minimum pay of Rs. 8,000/- per month. However, with the passage of time, she cleared her NET in the year 2013 and also obtained Ph.D. Degree in the year 2016.

Despite this, the grievance of the appellant had been that she was not paid the full UGC scale and other benefits. This led to her filing a writ petition in this Court in the year 2016 seeking removal of the condition of clearing NET/SLET and of getting the incentives only on clearing Ph.D. Degree.

It may be noted here that such conditions of mandatory

clearance of NET/SLET and obtaining Ph.D. Degree were recommended by the UGC vide its resolution passed in the year 1998, which was adopted by the State of Assam in the month of January, 2000.

The contention of the appellant is that since at the time of the advertisement such requirements were not in currency, nor had the afore-noted resolution been adopted by the State of Assam and, moreover, her delayed appointment was not attributable to her, such conditions ought not to bind her.

This argument was negated by the learned Single Judge on the sole ground that for maintaining uniformity in the educational standard, it was made clear by the UGC in its resolution that it shall be operative across the board. With the State of Assam having adopted such resolution for the purposes of its implementation in the universities, the only consequential effect was that any person appointed even before such resolution having been adopted by the State Government, would be under an obligation to clear such degree for continuing in service, or for getting promotional benefits in service.

The arguments raised before the writ Court on behalf of the appellant citing the cases of ***Madan Mohan Sharma & Anr. vs. State of Rajasthan & Ors.: (2008) 3 SCC 724***, and ***State of Rajasthan vs. R. Dayal & Ors.: (1997) 10 SCC 419***, that the rules which were prevailing at the time of advertisement would prevail and any changes in the eligibility condition would not affect the eligibility of the incumbents, was rejected by the learned Single Judge on the ground that the UGC regulation clearly stipulated that such requirements superseded all previous notifications and it was meant to maintain uniformity in the educational standard. It

was obligatory on the part of the State to adopt such resolution, making every incumbent on the post to acquire such degrees post their appointments as well.

That apart, the learned Single Judge refused to do away with the afore-noted requirement, which was in currency since the year 2016, only for the purpose of vindicating the claim of the appellant that she is required to be paid the full UGC scale after clearing the mandatory NET/SLET qualification and also payment of incentives after clearing her Ph.D.

The State/respondents have no objection in giving the appellant full UGC scale from the year 2013.

To that extent we find no anomaly in the judgment impugned.

The appellant shall be entitled to full UGC scale form the date she acquired the required qualifications in 2013 as also other consequential benefits/ promotional avenues.

The State shall ensure that the appellant does not have to approach the Court again for getting such benefits.

The present appeal, thus, is disposed off with the afore-noted observations.

JUDGE **CHIEF JUSTICE**

Comparing Assistant