



GAHC010015702020



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

Case No. : WP(C)/462/2020

MARJAN BEGUM
WORKING AS ASSTT. TEACHER (SCIENCE) SINCE 1997 IN THE JUNGLE
BLOCK HIGH SCHOOL, D/O- LT. MOTOSIN ALI TALUKDAR, W/O-
SHAZUDDIN LASKAR, R/O- VILL. DOBOKA NALA, P.O. JUNGLE BLOCK,
P.S- DOBOKA, DIST. NAGAON, ASSAM, PIN- 782428.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(SECONDARY) DEPTT., DISPUR, GHY.-06.

2:THE SECY. TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPTT.
DISPUR
GHY-06.

3:THE DY. SECY. TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.
DISPUR
GHY.-06.

4:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY.-19.

5:THE INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE (NDC)
DIST.- NAGAON
ASSAM
PIN- 782001.



6:THE HEAD MASTER
JUNGLE BLOCK HIGH SCHOOL
P.O. JUNGLE BLOCK
DIST. NAGAON
ASSAM
PIN- 782428.

7:MD. AHMED ALI TALUKDAR
S/O- LT. MOTOSIN ALI TALUKDAR
R/O- VILL. DOBOKA NALA
P.O. JUNGLE BLOCK
P.S.- DOBOKA
DIST.- NAGAON
ASSAM
PIN- 782428

Advocate for the Petitioner : MD. S ALOM

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

28.10.2021

Heard Mr. PK Deka, learned counsel for the petitioner, Mr. R Mazumdar, learned counsel for the respondents No. 1, 2, 3, 4 and 5 being the authorities under the Secondary Education Department of the Government of Assam, Mr. MH Talukdar, learned counsel for the respondent No. 7 Md. Ahmed Ali Talukdar. As the school itself is a provincialised school, Mr. R Mazumdar, learned counsel states that he can also appear for the Headmaster of the school being the respondent No. 6.

2. The petitioner claims to have been appointed as an Assistant Teacher in the Jungle Block High School in the Nagaon district as per the resolution No. 3



of the Managing Committee dated 30.11.1997. while the claim of the teachers of the Jungle Block High School was considered for provincialisation under the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 (in short Act of 2011), one Abdul Khaleque, who was a Science Graduate with Zoology, Geography and Mathematics was provincialised as the first Assistant Teacher. The petitioner claims that she had the legal right to have been provincialised under the Act of 2011 as the second Assistant Teacher in Science of the school.

3. The respondent No. 7 Md. Ahmed Ali Talukdar instituted WP(C) No. 5330/2012 claiming his right to be provincialised as the second Assistant Teacher (Science) and in the said writ petition, there was an interim order dated 15.11.2012 restraining the provincialisation of the second Assistant Teacher (Science). During the pendency of WP(C) No. 5330/2012, the respondent No. 4 being the Director of Secondary Education, Assam by the order dated 22.09.2014 had provincialised the services of all the other teaching and non-teaching staffs of the Jungle Block High School by keeping the second post of Assistant Teacher (Science) vacant for provincialisation.

4. WP(C) 5330/2012 was given a final consideration by the order dated 23.11.2015 with a direction to the District Level Scrutiny Committee (in short DLSC) to examine the claim of the respondent No. 7 Md. Ahmed Ali Talukdar. The DSLC upon such examination arrived at its conclusion that the writ petitioner Smti Marjan Begum is senior to Md. Ahmed Ali Talukdar and therefore would be entitled for provincialisation. This writ petition is instituted that nothing further has been done and the recommendation of the DSLC made in favour of the petitioner had not been acted upon.

5. Considering the limited grievance raised, we dispose of this writ petition by



directing the Director of Secondary Education, Assam to bring the recommendation of the DSLC made in favour of the petitioner to its logical end by passing an appropriate order. As it is a case of deemed provincialisation u/s 4(1) of the Act of 2011, in the event, the authorities are of the view that the petitioner satisfies all the requirement of Section 3 of the Act of 2011, which in fact would be as because the DSLC had examined the matter and recommended in her favour, the benefits of provincialisation be made applicable from 01.01.2013 as provided under the Act of 2011.

6. The reasoned order be passed by the Director of Secondary Education, Assam within a period of two months from the date of receipt of a certified copy of this order.

The writ petition is allowed to the extent indicated above.

JUDGE

Comparing Assistant