

GAHC010016472023



2026:GAU-AS:2340

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

Case No. : WP(C)/751/2023

PHANI DHAR BASUMATARI
SON OF SRI ANADI BASUMATARI,
R/O- KHAGARIJAN, P.O.- SILIKHABARI,
DISTRICT- SONITPUR, ASSAM,
PIN- 784149.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
HIGHER EDUCATION DEPARTMENT,
ASSAM SECRETARIAT, BLOCK-C,
GROUND FLOOR.

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE PRINCIPAL
LOKNAYAK OMEO KUMAR DAS COLLEGE
DHEKIAJULI
SONITPUR

ASSAM- 784110.

4:THE GOVERNING BODY OF LOKNAYAK OMEO KUMAR DAS COLLEGE
REPRESENTED BY ITS PRESIDENT

DHEKIAJULI
SONITPUR

ASSAM- 784110.

5:THE COMMISSIONER AND SECRETARY
PERSONNEL (B) DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. P MAHANTA, MS. P SAHARIA

Advocate for the Respondent : SC, HIGHER EDU, MR D BORUAH (R-3,4),MR N N UPADHYAYA (R-3,4),MR. B B KAKATI (R-3,4),GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 17.02.2026

Heard Mr. P. Mahanta, learned counsel appearing for the petitioner. Also heard Mr. D. Upamanyu, learned Standing Counsel appearing for the Higher Education Department (respondent Nos. 1 and 2); Mr. S. Upadhyay, learned counsel appearing for the respondent Nos. 3 and 4 and Ms. D. D. Barman, learned Additional Senior Government Advocate appearing for the State respondent (respondent No. 5).

2. The petitioner, by filing the present writ petition under Article 226 of the Constitution of India, calls in question the order dated 30.11.2022 whereby his appointment as Assistant Professor in the department of Bodo at Loknayak Omeo Kumar Das College, made on 23.09.2022, was cancelled on the ground of over-age.

3. The petitioner was serving as a Lecturer in the department of Bodo (Non Sanctioned) post since 26.07.2004. Pursuant to an

advertisement dated 23.03.2022 inviting applications for one post of Assistant Professor, the petitioner's application was initially not accepted due to the prescribed upper age limit. The petitioner approached this Court in WP(C) No. 2346/2022. By Judgment & Order dated 01.04.2022, the respondent authorities were directed to accept the petitioner's application and consider his prayer for condonation or relaxation of the upper age limit. In compliance, the petitioner was permitted to participate in the selection process and, upon selection, was appointed by order dated 23.09.2022. Subsequently, by a speaking order dated 30.12.2022, the respondent authorities declined to condone the petitioner's age and cancelled the appointment. Hence, the present writ petition.

4. Mr. P. Mahanta, learned counsel appearing for the petitioner contends that the Office Memorandum dated 03.05.1951 empowers the state to condone age and that similarly situated candidates were extended such benefits. It is further submitted that cancellation after appointment is arbitrary and unsustainable.

5. Mr. D. Upamanyu, learned Standing Counsel appearing for the Higher Education Department, fairly submits that the Office Memorandum dated 03.05.1951 provides discretion to the state for condonation of age in appropriate cases.

6. I have considered the submissions of the learned counsels appearing for both the parties and perused the material available on record.

7. It is undisputed that pursuant to the order of this Court in WP(C)

No. 2346/2022, the petitioner was allowed to participate in the selection process and was appointed after being duly selected. The Office Memorandum dated 03.05.1951 as evident from the averments made in the affidavit-in-opposition filed by the State respondent, clearly enables relaxation of the upper age limit.

8. The respondent authorities seek to justify the cancellation on the ground of oversight. Such explanation cannot be accepted, particularly when the appointment was made after compliance with a judicial direction.

9. More importantly, the record reveals that similarly situated candidates, namely Dr. Dipali Kherkatary and Binoy Kherkatary, were granted age condonation and appointed as Assistant Professors upon government approval. The petitioner therefore, stands on an identical footing.

10. In the above backdrop, denial of similar consideration to the petitioner lacks objectivity and offends the principle of parity. The impugned action, thus, warrants re-consideration.

11. Accordingly, the writ petition is disposed of by directing the respondent authorities to re-examine the petitioner's case for age condonation for the subject post, keeping in view the applicable office memorandum and the treatment accorded to similarly situated candidates. The petitioner shall submit a fresh representation enclosing all relevant materials, within 10 days from today.

12. The respondent authorities shall pass a reasoned order strictly in accordance with law within 2 months from the date of receipt of the

representation along with a certified copy of this order.

13. Ordered accordingly.

14. The writ petition stands disposed of.

JUDGE

Comparing Assistant