

GAHC010054162024



2026:GAU-AS:337

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

Case No. : WP(C)/1500/2024

PRATUL KR DAS AND 3 ORS
S/O- LATE AMULYA KR. DAS,
R/O- HENGRABARI GAON,
P.O.- BORGURI, DIST.- TINSUKIA,
ASSAM, PIN- 788126.

2: LOBEN CHANDRA BARMAN
S/O- LATE DHANBAR BARMAN

VILL. AND P.O.- KOMORAKATA

DIST.- HOJAI
ASSAM

PIN- 783135.

3: MILAN DAS
S/O- LATE BRIHASPATI DAS

VILL- BAGANA UPARNOI

P.O.- BANGAON
DIST- BARPETA

ASSAM
PIN- 781375.

4: NIRMALI DEKA RAJBONGSHI
W/O- HITESH RAJBONGSHI

MAPLE RESIDENCY
2B BIRUBARI

P.O.- GOPINATH NAGAR

DIST- KAMRUP
ASSAM

PIN- 781016

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
LABOUR AND EMPLOYMENT DEPARTMENT,
DISPUR, GUWAHATI, ASSAM,
PIN- 781006.

2:THE DIRECTOR
EMPLOYMENT AND CRAFTSMEN TRAINING
REHABARI
ASSAM
GUWAHATI-8.

3:THE JOINT DIRECTOR
EMPLOYMENT AND CRAFTSMEN TRAINING
REHABARI
ASSAM
GUWAHATI-8.

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY OF THE
GOVERNMENT OF ASSAM

THE SKILL
EMPLOYMENT AND ENTREPREURSHIP DEPARTMENT
DISPUR
GUWAHATI
ASSAM
PIN-781006

Advocate for the Petitioner : MR S BORTHAKUR, MR. D GOGOI,MS J RAJKUMARI

Advocate for the Respondent : SC, EMPLOYMENT AND CRAFTSMAN TRAINING, MS. A
TALUKDAR, GA, assam

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

JUDGMENT & ORDER (CAV)

Date : 06-01-2026

Heard Mr. S. Borthakur, learned counsel for the petitioners. Also heard Mr. S.P. Das, learned standing counsel, Employment and Craftsmen Training appearing for the respondents.

2. The petitioners in the present proceeding have prayed for a direction upon the respondent authorities for promoting them from the cadre of Senior Instructor to the cadre of Supervisor by reckoning that the post of Instructor (Social Studies) and Instructor (English language) as held by them to be included within the cadre of "Senior Instructor" as finding mention in Rule 3(c)(iv) of the Assam Craftsman Training Service Rules, 1993 (in short "the Rules of 1993).

3. The petitioner Nos. 1, 2 & 3 were appointed as Instructor (Social Studies) in the various Industrial Training Institutes (ITI) of the State on 24-10-1997, 27-12-1993 and 07-03-2010 respectively. The petitioner No. 4 similarly was appointed as Instructor (English language) in the ITI Guwahati on 17-03-2010. The petitioners on their appointment were extended with the scale of pay as authorized to the post of Senior Instructor, in terms of the scale of pay as set out in schedule-1 to the Rules of 1993. The petitioners contended that after their appointment, they had undergone the specified training course and passed the departmental examination as prescribed for the purpose of being considered for the next higher grade of Supervisor. The names of the petitioner Nos. 1 and 2 found place in the gradation list of Instructors of ITI (Subject Teacher) as published in the year 2005. Subsequently in the year 2012 a further gradation list of

Instructors (Senior) (Technical), Instructor Mathematics (Technical), Engineering Drawing related Instructors of ITIs came to be published but the names of the petitioners, herein, did not find mention in the said gradation list. The persons similarly situated like the petitioners, herein, and holding the post of Instructor (Mathematics), being aggrieved by the exclusion of their names in the said gradation list of 2012, had approached this Court by way of instituting a writ petition being W.P.(C) No. 3537/2012. A Coordinate Bench of this Court upon interpreting the provisions of Rule 3(c)(iv), more particularly, by assigning a meaning to the term 'Instructor' as finding place in the said Rule, proceeded vide judgment and order dated 15-09-2014 to hold that the post of Instructor (Mathematics) and such other similar posts would be included in the cadre of Senior Instructor as appearing in Rule 3(c)(iv) of the Rules of 1993 and accordingly a direction came to be issued to the respondent authorities to prepare a gradation list containing the names of all the members of the Assam Craftsman Training Service who were working in the cadre of Senior Instructor. It is the projected case of the petitioner, herein, the in spite of the said determination being made by the Coordinate Bench of this Court in the W.P.(C) No. 3537/2012, the petitioners, herein, were not included in the gradation list of Senior Instructors and accordingly they were not considered for promotion to the next higher grade of Supervisor.

4. Mr. S. Borthakur, learned counsel for the petitioners by referring to the provisions of Rule 3(c)(iv) of the Rules of 1993 submits that the word 'Instructor' as mentioned therein includes the cadre of Instructor (Mathematics), Instructor (Social Studies), Instructor (English language) etc. he submits that in view of the said position, the

petitioners, herein, are included within the cadre of Senior Instructor. He submits that the petitioners being included in the cadre of Senior Instructor, they are entitled to be considered for promotion to the cadre of Supervisor in terms of the provisions of Rule 12(1)(vi) of the Rules of 1993. He submits that the non-consideration of the cases of the petitioners for promotion to the cadre of Supervisor has led to violation of their fundamental rights. In support of his submission Mr. Borthakur has placed reliance on the judgment and order dated 15-09-2014 passed by a Coordinate Bench of this Court in W.P. (C) No. 3537/2012 (***Smti. Jyotima Mazumder Das & Ors. Vs. State of Assam & Ors.***) and has contended that the Coordinate Bench of this Court on interpretation of the provision of Rule 3(c)(iv) has held that the cadre of Senior Instructor would also include within its ambit the post of Instructor (Social Studies), Instructor (English language) etc. He submits that the decision of the Coordinate Bench in the case of ***Jyotima Mazumder Das (Supra)***, in the absence of any challenge presented, thereto, has since attained finality. He submits that the said decision would squarely apply to the case of the petitioners, herein. In the above premises, Mr. Borthakur prays that the respondent authorities be directed to consider the petitioners to be included in the cadre of the Senior Instructor and to take required steps for considering their respective cases for promotion to the cadre of Supervisor.

5. Per contra, Mr. S.P. Das, learned standing counsel for the respondents at the outset has submitted that the decision as rendered by this Court in the case of ***Jyotima Mazumder Das (Supra)*** would have no application to the facts as emanating in the present proceeding. He submits that the petitioners not holding the post of Instructor

(Mathematics) or any other posts as finding mention in the provision of Rule 3(c)(iv), the petitioners cannot contend to be incumbents in the cadre of Senior Instructor and accordingly, they are not entitled to be considered for promotion to the post of Supervisor. He submits that although the scale of pay of the petitioners and other Senior Instructors having Diploma in Engineering are the same, the post cannot be equated given the fact that the nature of duties as attached to the said posts are not similar. He submits that although the Senior Instructor is a cadre and the incumbents in the said cadre are to be considered for promotion to the rank of Supervisor, the post of Senior Instructor (English language), Social Studies, Mathematics not being included in the cadre of Senior Instructor, the incumbents in the said posts are not entitled to be considered for promotion to the post of Supervisor. Mr. Das has further submitted that although the decisions were taken at the administrative level to provide for an avenue for promotion to the incumbents in the post of Instructor (Mathematics), Instructor (English language), Instructor (Social Studies), the same was interfered with by this Court on the ground that the same was not in consonance with the provision of Rules of 1993. He further submits that the provisions of the Rules of 1993, more particularly, the provisions of Rule 3(c)(iv) of the Rules of 1993 having not been amended and the post of Instructor (Social Studies), Instructor (English language) etc. having not been incorporated within the cadre of Senior Instructor, the petitioners, herein, cannot claim for having their respective cases considered for promotion to the post of Supervisor.

6. I have heard the learned counsel for the parties and also perused the materials brought on record.

7. At the outset the relevant provisions of the Assam Craftsmen Training Service Rules, 1993 are to be noticed. Rule 3 provides that the service shall consist of the cadres mentioned therein. Rule 3(c) being relevant the same is extracted here-in-below:

“3. The Service shall consist of the following cadres:

C. Grade III (Non-Gazetted Posts)

i. Superintendent

ii. Foreman, Comprising the posts of Sr. Supervisor, MillwrightForeman, (Surveyor-cum-Junior Apprenticeship Adviser), Instructor AVTS, Maintenance Mechanic (Electrical & Mechanical) and Technical Assistant (Senior Scale).

iii. Supervisor.

*iv Senior Instructor, Comprising the posts of Instructor (Sr.) (Technical), **Instructor**, Mathematics (Technical) Instructor, Related Instruction, Sr. Instructor, Drawing*

v. Junior Instructor, comprising the post of Instructor (Jr.) and Training Mistri.”

8. Further the provisions of Rule 5(d) are extracted, here-in-below, for ready reference:

“5. Recruitment to the cadres of the service shall be made in the manner prescribed herein below:

(d) In the cadre of Supervisor:

(i) by promotion in accordance with Rules 11.12 and 14 Provided that the Appointing Authority in consultation with the Commissions may for good and sufficient reasons fill up any of the posts in the cadre by direct recruitment in accordance with rule 611) if he is satisfied that there is no suitable Officer in the service, available for promotion.”

9. Again Rule 12 is also extracted herein below:

“12. (1) Subject to suitability as may be decided by the Board and by the Appointing Authority as yet forth in Rule-13 and also subject to possessing the qualifications and experience as prescribed hereinafter, an officer shall be eligible for promotion from one cadre to another in the service as given below:

*(vi) From **Senior Instructor** to **Supervisor**.”*

10. A perusal of the provision of Rule 3(c)(iv) lays down that the cadre of Senior Instructor shall comprise of the post of Instructor (Senior) (Technical), **Instructor**, Mathematics (Technical) Instructor, Related Instruction, Senior Instructor, Drawing. The provisions of the said Rules came up for consideration before this Court in the case of **Jyotima Mazumder Das (Supra)** and a Coordinate Bench of this Court upon appreciating the provisions of the said Rules, more particularly, the prescription as made in Rule 3(c)(iv), had drawn the following conclusions:

“18. The core issue which arises for consideration in this case, as has already been noticed at the very beginning of the judgment and which stood fortified in the course of the hearing, is whether the post of Instructor, Mathematics in which post the petitioners are serving or similar other posts such as Instructor, Social Studies or Instructor, English etc. are included in the cadre of Senior Instructor as mentioned in Rule 3(1)(c)(iv) of the 1993 Rules. If the answer to this question is in the affirmative, consequences would be that persons holding the post of Instructor, Mathematics like the petitioners or similar other posts such as Instructor, Social Studies or Instructor, English etc. would become eligible for consideration for promotion to the cadre of Supervisor. If the answer is in the negative, they i.e. petitioners and other similarly situated persons would stand excluded from the cadre of Senior Instructor. In other words, they would be holding ex-cadre post of Instructor, Mathematics and would therefore not be eligible for consideration for promotion to the next higher cadre of Supervisor. The word which becomes crucial or central to this debate is the word Instructor both prefixed and suffixed by the punctuation mark ‘comma’ i.e. Instructor.

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19. Thus as can be seen from the above, Senior Instructor is a cadre like the immediately higher cadre of Supervisor which comprises of several posts. Cadre denotes a higher or a larger group whereas post denotes a smaller entity forming part of the larger group. Thus, if cadre is the genus, post is the species. As can be seen from the above, the cadre of Senior Instructor comprises of the posts of –

Instructor (Senior) (Technical)

Instructor

Mathematics (Technical) Instructor

Related Instruction

Senior Instructor, Drawing.

20. While petitioners argue that the post of Instructor would include posts like Instructor, Mathematics, respondents would argue that there is no post called Instructor, Mathematics. Respondents would like to read the Rule in such a way that the cadre of Senior Instructor comprises of the following posts –

Instructor (Senior) (Technical)

Instructor, Mathematics (Technical)

Instructor, Related Instruction

Senior Instructor, Drawing.

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22. When the rule making authority framed the 1993 Rules, they were conscious of the fact that some people were holding the post of Instructor, Mathematics. Atleast, a contra presumption cannot be drawn. Therefore, while interpreting the Rule, the two commas pre-fixing and suffixing the word Instructor cannot be ignored; its importance cannot be simply brushed aside. It is a well recognized principle of interpretation of statutes that the legislature or the rule making authority will not unnecessarily use an expression in the statute. The comma used both before and after the word Instructor would indicate that the rule making authority identified Instructor as a separate post within the cadre of Senior Instructor. Instructor can be Instructor, Mathematics or Instructor, Social Studies etc. This is the only reasonable and rational way of looking at the rule as any other construction would lead to an absurdity inasmuch as the post of Instructor, Mathematics and such other posts would otherwise be outside the purview of the 1993 Rules as ex-cadre post which would make their service totally stagnant without any scope for promotion. Such an intention cannot be ascribed to the rule making authority.

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24. Again in the case of *Grasim Industries Limited -Vs- Collector of Customs* reported in (2002) 4 SCC 297 where the Apex Court was dealing with a question relating to classification of an item under the First Schedule of the Customs Tariff

Act, 1975, it was clearly held that no words or expressions used in any statute can be said to be redundant or superfluous. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It was held thus:-

10. No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to take upon itself the task of amending or alternating (sic altering) the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so, what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided. As stated by the Privy Council in Crawford v. Spooner we cannot aid the legislature's defective phrasing of an Act, we cannot add or mend and, by construction make up deficiencies which are left there. In case of an ordinary word there should be no attempt to substitute or paraphrase of general application. Attention should be confined to what is necessary for deciding the particular case. This principle is too well settled and reference to a few decisions of this Court would suffice. (See: Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. v. Custodian of Vested Forests, Union of India v. Deoki Nandan Aggarwal, Institute of Chartered Accountants of India v. Price Waterhouse and Harbhajan Singh v. Press Council of India).

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26. The two decisions relied upon by the learned Counsel for the respondents, in the opinion of the Court, would be of no assistance. It is a settled position in law that when the language of a statutory rule is clear, purposive construction of a statute is not to be resorted to. When the rule making authority clearly conveys the intention in plain words without any ambiguity, the Court would not give its own meaning which will amount to rewriting of the provisions of the

rules. Object of interpretation is to give effect to the meaning which is conveyed by the statute unless the grammatical construction leads to any absurdity. Coming to the impugned provision in the present case, it is quite apparent that the language employed is neither clear nor unambiguous. This has been further compounded by the executive authorities by loosely using the words while describing the posts mentioned in Rule 3(1)(c)(iv) of the 1993 Rules. Acceptance of the submissions made on behalf of the respondents would lead to hardship and prejudice to a class of employees, if not leading to absurdity. It cannot be presumed that the rule making authority had intended to exclude the post of Instructor, Mathematics and similar other posts from the purview of the 1993 Rules so as to deny them any scope of promotion for all times to come. Rather, the presumption would always be to the contrary. In that view of the matter and following the Apex Court judgments referred to above, the interpretation which has been advanced on behalf of the petitioners is found to be more acceptable, being in tune with the scheme of the 1993 Rules.

27. That being the position and having regard to the discussions made above, it is hereby declared that the post of Instructor, Mathematics and such other similar posts would be included in the cadre of Senior Instructor as appearing in Rule 3(1)(c)(iv) of the 1993 Rules and following Rule 24 of the said Rules, the respondents shall now prepare a gradation list containing the names of all members of the Assam Craftsmen Training Service who are in the cadre of Senior Instructor. This shall be done within a period of three months from the date of receipt of a certified copy of this order.”

11. This Court has carefully perused the conclusions drawn by the coordinate Bench of this Court in the case of **Jyotima Mazumder Das (Supra)** and the interpretation as made by the Coordinate Bench with regard to the post of **Instructor** finding mention therein and the conclusions that the post of Instructor (Mathematics), Instructor (Social Studies), Instructor (English language) etc. is included within the grade of Instructor is found to be in tune with the provisions of the Rules of 1993 and accordingly this Court is of respectful agreement with the conclusions so drawn by the Coordinate Bench of this Court in the said decision. The Coordinate Bench of this Court having already held in the

decision of ***Jyotima Mazumder Das (Supra)*** that the post of Instructor (English language), Instructor (Social Studies) along with the post of Instructor (Mathematics) would form a part of the cadre of Senior Instructor as finding mention in Rule 3(c)(iv) of the Rules of 1993, the petitioners, herein, are held to be included within the cadre of Senior Instructor under the provisions of Rules of 1993 and accordingly are eligible in terms of the provisions of Rule 12(1)(vi) for promotion to the cadre of Supervisor. The contentions raised by the learned counsel for the respondents in the present proceeding is found to be the same contention which was raised before the Coordinate Bench of this Court in the proceeding of W.P.(C) No. 3537/2012 and the same was already on consideration rejected by the Coordinate Bench of this Court, accordingly the same very contention would not mandate any further consideration by this Court in the present proceeding.

12. In view of the above discussions, this Court is of the considered view that the petitioners holding the posts of Instructor (Social Studies) and Instructor (English language) are included in the cadre of Senior Instructor as appearing in the Rule 3(c)(iv) of the Rules of 1993 and accordingly, in terms of the provisions of Rule 24 entitled to be included in the gradation list of the cadre of Senior Instructor in terms of the provisions of Rule 24 of the said Rules and considered for promotion to the cadre of Supervisor.

13. In view of the above, the respondent authorities are directed to consider the case of the petitioners for promotion to the cadre of Supervisor by construing them to be a member in the cadre of Senior Instructor strictly in accordance with the provision of the Rules of 1993 as expeditiously as possible but not later than 03 (three) months from the

date of receipt of a certified copy of this order.

14. With the above observations and directions, the present writ petition stands allowed.

JUDGE

Comparing Assistant