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

Case No. : WP(C)/4580/2023

MONOWAR HUSSAIN
S/O- LATE TOWAZUDDIN SHEIKH,
R/O- VILL- KAMARDIHI PART I,
P.O- TILAPARA, DIST- DHUBRI, ASSAM, PIN-783348

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, SCHOOL
EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6.

2: THE DIRECTOR OF SECONDARY EDUCATION ASSAM

KAHILIPARA
GUWAHATI-19

3: THE DEPUTY DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN- 781019.

4: THE INSPECTOR OF SCHOOLS

DHUBRI DISTRICT CIRCLE
P.O AND DIST- DHUBRI
ASSAM
PIN-783301

5: JAHANGIR SHEIKH
S/O- LATE NIZAMUDDIN SHEIKH

R/O- VILL- KAMARDIHI PART I

P.O- TILAPARA
DIST- DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR. I H SAIKIA, MS L HMAR, MR K KASHYAB, MR. M R CHOUDHURY, MR. K KALITA, MR. B BORAH

Advocate for the Respondent : SC, SEC. EDU., MR. A DEKA (r-5)

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 25.02.2026

Heard Mr. I H Saikia, learned counsel for the petitioner. Also heard Ms. D Moshahary, learned standing counsel, Department of Secondary Education, Assam, appearing for respondent nos. 1, 2, 3, & 4 and Mr. A Deka, learned counsel appearing for respondent no. 5.

2. The challenge, in the present proceeding, is to an order dated 11.04.2023, issued by the Director, Department of Secondary Education, Assam, allowing the respondent no. 5 to hold the charge of the post of Head-Master of Tilapara High School, Dhubri, until further order. The petitioner was initially appointed as an Assistant Teacher in the intermediate scale of pay w.e.f 16.03.2001 in the Dakshin Salkocha ME School under the OBB scheme. Thereafter, the petitioner was regularized in his services as an Assistant Teacher vide issuance of an order dated 30.07.2010. The Dakshin Salkocha ME School was, thereafter, w.e.f 01.04.2018, amalgamated with Tilapara High School, Dhubri. On such amalgamation, the amalgamated school was to be known as Tilapara High School. The petitioner, who was graduate, on the schools being amalgamated, came to be placed in the

graduate cadre and he was authorized the graduate scale of pay w.e.f 01.04.2016. It is to be noted that the petitioner, in the meanwhile, had also acquired the B.Ed degree. On the other hand, the respondent no. 5 is a Teacher of Tilapara High School, whose services were provincialized w.e.f 01.01.2013. However, the respondent no. 5 had not acquired the B.Ed qualification.

On the post of Head-Master falling vacant in the said school, the respondent authorities, by considering the respondent no. 5 to be the senior-most teacher in the school, allowed him to hold the charge of the post. The said order was challenged by the petitioner, herein, before this Court, by way of instituting a Writ Petition being WP(C) No. 278/2022.

3. The said Writ Petition was given a final consideration by a Coordinate Bench of this Court vide order dated 28.07.2022. The Coordinate Bench of this Court, vide the said order, had noticed that both the petitioner as well as the respondent no. 5, herein, were not eligible, in terms of the criteria set out under the provisions of Rule 14(2) of the Assam Secondary Education (Provincialised School) Rules, 2018, to hold the post of Head Master of a provincialized school. Accordingly, the matter came to be remanded to the Director of Secondary Education, Assam, to take a fresh decision in the matter. Accordingly, the Director of Secondary Education, Assam, vide order dated 11.04.2023, permitted the respondent no. 5 to continue to hold the charge of the post of Head Master of the School.

Being aggrieved, the petitioner has approached this Court.

4. The learned counsel for the parties have made their submissions in line with the facts noticed, hereinabove. The learned counsel for the respondent no. 5 has submitted that both the petitioner and the respondent no. 5, having not satisfied the eligibility criteria set out in the provisions of Rule 14(2) of the said Rules of 2018, the petitioner being the senior, there exist no bar to allow the respondent no. 5 to continue as the In-charge Head Master of the School.

5. I have heard the learned counsel for the parties and perused the materials available on record.

6. At the outset, this Court notices that on the present Writ Petition being filed, this Court, while issuing notices vide order dated 16.08.2023, had stayed the effect and operation of the order dated 11.04.2023, impugned in the present proceedings. Ms. D Moshahary, learned standing counsel, Department of Secondary Education, Assam, has submitted that after the passing of the order dated 16.08.2023, in the present proceedings, the charge of the post of Head Master of the school in question, is being held by the Inspector of Schools.

7. Having noticed the said developments taking place, this Court would notice the provisions of the Rules of 2018 pertaining to the eligibility set out, therein, for being promoted to the post of Head Master. Rule 14(2) of the said Rules of 2018 being relevant, the same is extracted below :

“14. Recruitment to the post of Headmaster/Superintendent and procedure thereof :

(2) Eligibility for the post of Headmaster/Superintendent in High School/High Madrassa as the case may be shall be as follows:-

(a) He must be B.A./B.Sc/B.Com with B.T./B.Ed degree from any recognized University. In respect of Hindi Teacher having degree qualification, the Hindi 'Parangat' and 'Nishanat' shall be considered instead of B.T./B.Ed;

(b) He must have at least 10 years of teaching experience as Graduate Teacher:

Provided that the Graduate teacher shall include the cadre of Assistant Headmaster for the purpose of selection to the post of Headmaster and the seniority of the Assistant Headmaster shall be counted from the date of joining as Graduate Teacher with graduate scale of pay:

Provided further that in case of amalgamated High School where ME/MV school has been amalgamated, the Assistant Headmaster is eligible for

selection as Headmaster subject to the condition that the incumbent should have at least 15 years of teaching experience as graduate teacher including the period of service in the erstwhile ME/MV School."

8. A perusal of the provision of Rule 14(2) of the Rules of 2018 would go to reveal that an incumbent Assistant Teacher for being promoted to the post of Head Master, must be a graduate with B.Ed degree, from a recognized university. Further, such graduate teacher having the educational and professional qualification, must also have at least 10 years of teaching experience as a graduate teacher.

9. In the case on hand, the petitioner is found to be a graduate as well as to possess a B.Ed Degree. However, his service for the purpose of promotion to the post of Head Master would be reckonable only w.e.f 01.04.2016 i.e. the date when he was given a graduate scale of pay. Considering the length of service of the petitioner w.e.f 01.04.2016, it is found that on the date when the impugned order dated 11.04.2023 was so issued, the petitioner did not fulfill the eligibility criteria, with regard to the teaching experience mandated under the provisions of Rule 14 (2) for being promoted to the post of Head Master. The respondent no. 5, although has teaching experience as a graduate teacher w.e.f 01.01.2013, and is also a graduate, but he does not have a B.Ed degree. Accordingly, the respondent no. 5 is also not found to be eligible to be considered for promotion to the post of Head Master of a provincialized school, on regular basis.

10. This Court in the case of ***Jagannath Pegu & Ors. Vs. State of Assam & Ors.*** reported in ***(2007) 3 GLT 389*** had held that even for the purpose of holding charge of a promotional post, the incumbent concerned must have to fulfill all the requisite eligibility criteria mandated for being considered for promotion to the such promotional post, on regular basis. In the case on hand, both the petitioner as well as the respondent no. 5, being found to not have satisfied the eligibility criterias as set out under the provisions of Rule 14(2), both of them are held to be not eligible to be considered for promotion to the post of Head Master, as on date, on regular

basis. Accordingly, applying the decision of ***Jagannath Pegu & Ors. Vs. State of Assam & Ors.*** reported in ***(2007) 3 GLT 389***, of the present case, both the petitioner as well as the respondent no. 5 are also found not to be eligible for being permitted to hold the charge of the post of Head Master, at this stage.

11. In view of the said position emanating in the matter, this Court directs the Director of Secondary Education, Assam to allow the jurisdictional Inspector of schools to continue to hold the charge of the post of Head Master of the school in question, till a teacher working in the school, fulfills all the eligibility criterias as set out in the provisions of Rule 14(2).

12. The learned counsel for the respondent no. 5 has also raised a grievance, with regard to the engagement of the petitioner, as the Academic In-Charge of the school. A teacher is found to be engaged as the Academic In-Charge, in a school, when the charge of the post of Head Master of the school, for any reason, is held by a departmental authority. Such arrangements are made only to ensure that the academic activities of the school does not suffer. Further engagement as Academic In-Charge does not clothe the teacher concerned with any added benefit for recruitment against the post of Head Master of the school nor any financial benefit is authorized for the purpose.

13. Accordingly, this Court is of the considered view that a discretion has to be granted to the departmental official holding the charge of the post of Head Master of a school, to engage a teacher of the school to act as its Academic In-Charge. Accordingly, the engagement of the petitioner as the Academic In-Charge, in the considered opinion of this Court, cannot be held to be erroneous.

14. With the above observations and directions, the present Writ Petition stands disposed of.

JUDGE

Comparing Assistant