

GAHC010176002020



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

Case No. : WP(C)/5195/2020

DR MANOJ KUMAR DAS AND ANR
S/O. MATHURA MOHAN DAS, R/O. VILL. JAYANAGAR, MALIGAON,
GUWAHATI-781011, DIST. KAMRUP (M), ASSAM.

2: NOVONITA BARUAH
W/O. DR. JHON KUMAR KALITA
R/O. HOUSE NO. 116
OPPOSITE K.B. SOUND LAKHIMINAGAR
HATIGAON
GUWAHATI-781036
DIST. KAMRUP (M)
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HIGHER
EDUCATION DEPTT., DISPUR, GUWAHATI-781006, ASSAM.

2:THE DIRECTOR

HIGHER EDUCATION DEPTT.
KAHILIPARA
GUWAHATI-781019.

3:THE VICE-CHANCELLOR

COTTON UNIVERSITY
PANBAZAR
GUWAHATI-781001.

4:THE REGISTRAR

COTTON UNIVERSITY

PANBAZAR
GUWAHATI-781001.

5:COTTON UNIVERSITY

PANBAZAR
GUWAHATI-781001
REP. BY THE REGISTRAR

Advocate for the Petitioner : MR N DUTTA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

04.12.2020

Heard Mr. N Dutta, learned senior counsel for the petitioner, Mr. PD Nair, learned counsel for the respondent Cotton University and Mr. AR Tahbildar, learned Standing Counsel for the Higher Education Department.

Issue notice returnable on 09.12.2020.

Extra copies of the writ petition be furnished to the respective learned counsel within three days.

The petitioners who served in the respondent Cotton University as Assistant Professors in Molecular Biology and Biotechnology on a contractual basis of approximately 12 years are aggrieved for not being shortlisted for the purpose of interview pursuant to an advertisement dated 19.06.2019 for regular appointment against the said two posts. It is stated that the petitioners have exceeded the upper age limit of 38 years and therefore, they are not being shortlisted.

Reference is made to an Office Memorandum dated 03.03.2016 of the Government of Assam, Personal (B) Department, which provides that the upper age limit for Government services has been extended by five years up to 43 years.

Mr. PD Nair, learned counsel for the Cotton University raises an objection that the said extension is valid only for a period of two years and not beyond that and therefore as on today the relaxation of five years is not available.

However, we take note of that Clause 5 of the General Instruction along with the advertisement provides that the age limit shall be governed by the existing rules of the Government of Assam wherever applicable.

In the circumstance, we are required to examine as to what would be the existing Rules of the Government of Assam and whether such rules provides for any relaxation in the upper age limit in any given circumstance and if yes, whether the circumstance of the petitioners would also meet the requirement.

It is stated that the interviews pursuant to the advertisement are scheduled to be held on 7th and 8th of December, 2020.

Considering the prima-facie case being made out, the balance of convenience and the irreparable loss that the petitioners may suffer, in the interim, we provide that the petitioners be allowed to participate in the interview to be held on the aforesaid two dates provisionally and the results thereof be subject to the final outcome of the writ petition. As the petitioners are allowed to provisionally participate, any final declaration of the results without an adjudication may subsequently prejudice them or may make it inconvenient for the other candidates. Accordingly, the results of the selection be not declared till the next date fixed.

The respondents, if so advised may file their affidavits on or before 07.12.2020 with a copy to the petitioners and the petitioners, if they so desire, may file their reply on or within 08.12.2020, so as to enable the Court to consider the matter on 09.12.2020.

JUDGE

Comparing Assistant