

GAHC010274242024



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

Case No. : WP(C)/6875/2024

MOON KR. TAID
S/O- PURNA KANTA TAID, C D ROAD, WARD NO. 4, NORTH LAKHIMPUR,
P.O.- NORTH LAKHIMPUR, DIST- LAKHIMPUR, ASSAM 781001

VERSUS

THE STATE OF ASSAM AND 5 ORS.
BEING REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, SCHOOL EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

4:THE DEPUTY INSPECTOR OF SCHOOL
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM

6:SRI JADAV BHUYAN
ASSISTANT TEACHER

SUBANSIRI SEWA ASHRAM
KHELMATI
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM
PIN NO. 78703

Advocate for the Petitioner : MR J PAYENG, MS A PAYENG

Advocate for the Respondent : SC, ELEM. EDU, G. R. SINGHA (R-6),MR. N BORAH(R-6)

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 28.04.2026

Heard Mr. J Payeng, Learned Counsel for the Petitioner. Also heard Mr. B Talukdar, Learned Standing Counsel, Department of Elementary Education, Assam, appearing for the respondent Nos. 1, 2, 3, 4 & 5 and Mr. N Bora, Learned Counsel appearing for the respondent No. 6.

2. The petitioner, in the present writ petition, has presented a challenge to an order dated 13.12.2024, issued by the District Elementary Education Officer, Lakhimpur, North Lakhimpur, towards allowing respondent No. 6, to hold the charge of the post of Head Master of Suwansiri Sewasharam M. E School, Lakhimpur.

3. As projected in the Writ Petition, the petitioner was appointed as an Assistant Teacher in Suwansiri Sewasharam M. E School, Lakhimpur, (hereinafter, referred to as the School) on 02.03.2001 and was also authorized a scale of pay. The petitioner joined the said School, as an Assistant Teacher, on 12.03.2001. The petitioner, in the year 2006-2007, was deputed for undergoing the Upper Primary Teachers Training Course at the District Institute of Education & Training, Lakhimpur, and had successfully completed the said course.

The incumbent, in the post of Head-Master, on retiring from her services on

attaining the age of superannuation w.e.f 30.11.2024, handed over the charge of the post of Head-Master to the petitioner, as he was the next senior-most Assistant Teacher in the said School, after one Smt. Gitamoni Dutta Borah had refused to accept the charge of the post of Head-Master. The petitioner, accordingly, took over the charge of the said post, after the superannuation of the incumbent, in the said post. While the petitioner was so continuing, the District Elementary Education Officer, (DEEO), Lakhimpur, North Lakhimpur, vide order dated 13.12.2024, proceeded to allow the respondent No. 6, herein, to hold the charge of the post of Head-Master w.e.f 01.12.2024, until further orders or till posting of a regular Head-Master by the Department.

Being aggrieved, the petitioner has instituted the present writ petition.

4. Mr. J Payeng, Learned Counsel for the Petitioner, by reiterating the facts noticed, hereinabove, has submitted that the manner of recruitment to the post of Head-Master of an Upper Primary School, is laid down in the notification dated 08.03.2022 and the same mandates that a teacher, who have passed at least Matric/HSLC, Normal or have, at least, intermediate or its equivalent qualification or above and have successfully undergone necessary training, as may be prescribed by the Department, shall only be considered for promotion to the post of Head-Master. Mr. J Payeng, Learned Counsel for the Petitioner has further submitted that while the petitioner had a joined his services, w.e.f 12.03.2001, the respondent No. 6 had so joined his services, in the said School, w.e.f 10.08.2009. It is submitted that the petitioner, herein, fulfills the eligibility criterias, for promotion to the post of Head-Master of an Upper Primary School, as set-out in the notification dated 08.03.2022. However, ignoring the eligibility of the petitioner, to hold the charge of the post of Head-Master, the respondent No. 3, had proceeded to allow the respondent No. 6, to hold the charge of the post of Head-Master, and accordingly, the petitioner, herein, in spite of being eligible and senior to the respondent No. 6, is now required to work

under the respondent No. 6, in the School, in question.

5. Mr. J Payeng, Learned Counsel for the Petitioner submits that from the pleadings, brought on record by the respondent No. 2, i.e. Director of Elementary Education, Assam, it is revealed that the jurisdictional District Elementary Education Officer, (DEEO), had permitted the respondent No. 6, to hold the charge of the post of Head-Master of the School in question, only by noticing his higher educational qualification. Mr. J Payeng, Learned Counsel for the Petitioner submits that when the guidelines, as notified, vide the notification dated 08.03.2022, have prescribed the eligibility criteria and the petitioner having fulfilled the same, it was not open to the respondent authorities to proceed to allow the respondent No. 6, to hold the charge of the post of Head-Master by reckoning the higher educational qualifications, more so, when no selection, for the purpose, was carried out.

6. In view of the above, Mr. J Payeng, Learned Counsel for the Petitioner submits that the order dated 13.12.2024, would mandate interference from this Court.

7. Mr. J Payeng, Learned Counsel for the Petitioner having made the said submissions has further stated that this Court, vide order dated 19.12.2024, had, suspended the effect and operation of the order dated 13.12.2024. He submits that in pursuance to the said interim directions, passed by this Court, the District Elementary Education Officer, Lakhimpur, North Lakhimpur, had, vide order dated 21.12.2024, suspended the order dated 13.12.2024 and directed the Deputy Inspector of Schools, Lakhimpur, North Lakhimpur, to hold the charge of the post of Head-Master of the School, in question, with financial powers, until further orders, which arrangement is continued till date.

8. *Per contra*, Mr. B Talukdar, Learned Standing Counsel, Department of Elementary Education, Assam, submits that from the proposal, as submitted in the matter, it was found that the respondent No. 6, was more qualified

and possessed the required educational and professional qualification. He submits that the respondent No. 6 was an M.A with B.Ed & D.El.Ed qualification. Whereas, the petitioner was only a Higher Secondary pass and had a certificate of a 6 (Six) month, in service, Upper Primary Teachers Training Course. He submits that considering the higher educational and professional qualification of the respondent No. 6, he was allowed to hold the charge to the post of Head-Master by the District Elementary Education Officer, Lakhimpur, North Lakhimpur. He submits that the said arrangement was so made by considering the smooth functioning of the School in question. Accordingly, he submits that the said order would not mandate an interference from this Court.

9. Mr. N Bora, Learned Counsel appearing for the respondent No. 6, submits that it is not disputed that the respondent No. 6 had higher educational as well as professional qualification and accordingly, was the most suitable person to be allowed to hold the charge of the post of Head-Master, pending a regular selection being carried out in the matter. It is submitted that the petitioner, being a graduate as well as having the requisite training, the respondent No. 6 was authorized a grade-pay of Rs. 2700/- (Rupees Two Thousand Seven Hundred Only) w.e.f November 2015, in terms of the provisions of the Assam Services (Revision of Pay) Rules, 2010. Mr. N Bora, Learned Counsel appearing for the respondent No. 6, by referring to the notification dated 08.03.2022, has submitted that the same mandates that the selection for the post of Head-Master in Upper Primary School shall be made strictly by applying the criteria of "Seniority cum Efficiency" and further that teachers, who have at least Matric/HSLC, normal or intermediate or equivalent qualification or above and have successfully undergone the necessary training, as may be prescribed by the Department, shall only be considered for promotion. He submits that the respondent No. 6 possess the requisite educational qualification, including the qualifications laid down by the National Council for Teachers Education,

vide notification dated 23.08.2010, for promotion to the post of Head-Master of an Upper Primary School and accordingly, the respondent No. 3, had not committed any error allowing respondent No. 6, to hold the charge of the post of Head-Master in the said School. Accordingly, he submits that the respondent No. 6, admittedly, possessing Higher Educational qualification and professional qualification, the order dated 13.12.2024, allowing him to hold the charge of the post of Head-Master, would not mandate an interference from this Court.

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

10. At the outset, it is to be noted that as agreed to by the Learned Counsel for the Parties, the guidelines for promotion to the post of Head-Master in Upper Primary School, is, as laid down in the provisions of the notification dated 08.03.2022. The said guidelines being relevant are extracted, hereinbelow :

“No.AEE.509/2019/45 :- In supersession department's earlier Notification No.AEE. 199/2009/42 dated 02.03.2010 the Governor of Assam is pleased to frame the following procedures for promotion to the post of Headmasters/Headmistress of M.E. School/MEM/MV/Govt/Provincialised MV Schools and Govt. Sr. Basic Schools.

1) The post of Headmasters/Headmistress of above mentioned Schools shall be promotional posts. Appointment to the posts shall be made on the basis of Seniority-cum-Efficiency and recommendation of the District Level Selection Committee to be constituted by the Director of Elementary Education, Assam.

2) This Committee shall prepare a District gradation list of Teachers (separately for ME/MEM/MV/Provincialised MV Schools and Govt. Senior Basic Schools) in order of seniority showing date of appointment, Educational qualification, year of passing of training, age on the date of appointment, date of retirement which should be communicated to the incumbents with copies to all the concerned authorities for information.

3) Selection for the posts of Headmasters in such Schools shall be made strictly on the basis of Seniority-cum-Efficiency

4) The teachers having less than 10 (ten) years of continuous service shall not be considered for promotion.

5) The teachers who have passed atleast Matric / HSLC, Normal or have at least intermediate or its equivalent qualification or above and have successfully undergone necessary training as may be prescribes by the Department shall only be considered for promotion. However, the teacher who have completed minimum 15 (fifteen) years of continuous service, but no facilities have been provided to him/her for the present training may also be considered for promotion provided there is nothing adverse against them.

6) The Committee shall prepare a panel of selected teachers which shall remain valid for one year from the date of selection.

7) In case of Hindi/ Classical/Language Teachers having required minimum educational qualification and training may also be considered for promotion.

8) The Committee shall follow the Assam Scheduled Caste and Scheduled Tribe (Reservation of vacancies in service & posts) Act. 1978 and Rules as amended framed thereunder preparation of the panel of teachers for the post of Headmaster/Head Mistress of ME/MEM/ MV/ Govt./ Provincialised MV Schools and Govt. Sr. Basic Schools."

11. A perusal of the said guidelines, as laid down, would reveal that the post of Head-Master/Head-Mistress of an Upper Primary School, shall be a promotional post and the such promotion shall be made on the basis of "Seniority cum Efficiency", basing on a recommendation, made by the District Level Selection Committee to be constituted by the Director of Elementary Education. Such selection is also required to be so made, on the basis of a District wise Gradation List of Teachers, prepared separately for ME/MEM/MV/Govt./Provincialised MV Schools and Govt. Sr. Basic Schools. The said guidelines lay down that a teacher, for being eligible to be considered for promotion to the post of Head-Master, must have rendered not less than 10 (Ten) years of continuous service. Further, such Teachers must have passed at least Matric/HSLC, normal or have at least intermediate or qualification or above and have successfully undergone necessary training, as may be prescribed by the Department. Having noticed the manner in which promotion to the post of Head-Master is to be so considered, this Court finds that in the School in question, the petitioner, admittedly, was senior to the respondent No. 6. The petitioner had joined

his services, in the said School, on 12.03.2001, while the respondent No. 6 had so joined his services on 10.08.2009. The said position is not disputed by the parties to the proceeding. The petitioner, herein, possess a Higher Secondary qualification and had also completed the Upper Primary Teachers' Training Course. It is to be noted that the said course is one of the prescribed training courses, mandated for Teachers, working in Upper Primary School in the State. Accordingly, the petitioner is found to have satisfied the educational and professional qualification, as mandated in Clause 5 of the notification dated 08.03.2022. Accordingly, the petitioner, having possessed the requisite eligibility criteria for being considered for promotion to the post of Head-Master of an Upper Primary School, the process of promotion to the said post, being initiated, the petitioner, herein, would also be eligible to have his case so considered for such promotion.

12. It is a settled position of law that for holding the charge of a post, which is also mandated to be filled up by promotion, the person concerned must fulfill the requisite eligibility criteria, as mandated for regular promotion to the said post (refer ***Jagannath Pegu Vs. State of Assam & Ors.*** reported in ***(2007) 3 GLT 389***).

13. Accordingly, considering the guidelines laid down in the notification dated 08.03.2022, in the light of the decision of this Court in the case of ***Jagannath Pegu (Supra)***, this Court finds that the petitioner, herein, possess the requisite eligibility criterias, for being considered for promotion to the post of Head-Master of a provincialized Upper Primary School and accordingly, it is to be held that the petitioner was also eligible for being considered for holding the charge of the post of Head-Master of a provincialized Upper Primary School in the State, pending completion of a process for regular promotion to the said post. The respondents had denied to the petitioner, an opportunity to hold the charge of the post of Head-Master of the School, in question, only by noticing the higher educational and professional qualification possessed by the respondent No. 6. However,

while proceeding to make the said consideration, the respondents had lost sight of the fact that the petitioner, herein, fulfilled all the requisite eligibility criteria as set-out in the provisions of the said notification dated 08.03.2022. It is also to be noticed that prior to issuance of the impugned order dated 13.12.2024, there was no occasion for the respondent authorities to examine the *inter se* merit, between the petitioner and the respondent No. 6. The petitioner possessing the minimum requisite educational qualification and also having undergone the prescribed training course, the petitioner, by virtue of his seniority in the School, ought to have been allowed to hold the charge of the post of Head-Master of the School in question, more so, when nothing adverse existing against him in his service records, have been brought on record.

14. In view of the above conclusions reached by this Court, this Court, noticing the manner in which the order dated 13.12.2024, was so issued, proceeds to hold that the same would mandate an interference from this Court.

15. Accordingly, the order dated 13.12.2024, along with the order dated 21.12.2024, stands set-aside.

16. Having interfered with the order dated 13.12.2024, considering the fact that the petitioner, otherwise, fulfills the requisite eligibility criteria, set out in notification dated 08.03.2022 and also being the senior-most Assistant Teacher in the School, the other senior Assistant Teacher viz. Smt. Gitamoni Dutta Borah, having declined to hold the charge to the post of Head-Master of the School, this Court directs the District Elementary Education Officer, (DEEO), Lakhimpur, North Lakhimpur, to proceed to issue appropriate order, allowing the petitioner, herein, to hold the charge of the post of Head-Master of the said School along with financial power. The direction to allow the petitioner to hold the charge to the post of Head-Master in the School in question, is subject to completion of the process for effecting promotion in regular basis to the post of Head-Master of the

School.

17. It is further provided that the process for regular promotion, against the vacant posts of Head-Master, presently available in the district of Lakhimpur, including the posts in question, in the present proceeding, be proceeded with, in accordance with the procedure, as mandated in this connection.

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

JUDGE

Comparing Assistant