
(2018) 05 GAU CK 0102
In the Gauhati High Court
Case No : WP(C) 82 of 2015

Abdur Rasid Hazari

APPELLANT

Vs

State Of Assam And 5 Ors

RESPONDENT

Date of Decision : 15-05-2018

Acts Referred:

Citation : (2018) 05 GAU CK 0102

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA, J

Bench : Single Bench

Advocate : J Islam, D Saikia

Final Decision : Disposed Off

Judgement

1. Heard Mr. A. M. Barbhuiya, learned counsel for the petitioner. Also heard Mr. N. Sarma, learned Standing Counsel for the Elementary Education

Department.

2. The petitioner was appointed as an Assistant Teacher in the East Gobindapur Senior Madrassa as per the order dated 01.01.2006 of the Secretary

of the Madrassa and, accordingly, the petitioner joined his services on 03.01.2006.

3. On 26.02.2011, the said Madrassa was bifurcated into two independent institutions namely 1) East Gobindapur Senior Madrassa and 2) East

Gobindapur Pre-Senior Madrassa respectively. The service of the petitioner upon the bifurcation was placed with the East Gobindapur Pre-Senior

Madrassa. When the process for provincialisation was initiated under Assam Venture Educational Institution (Provincialisation of Services) Act, 2011,

the order dated 27.12.2013 of the Director of Madrassa Education was passed wherein it was provided that out of 243 number of teaching and non-

teaching staff created for the Cachar District for provincialisation under the aforesaid Act, 10 posts were allotted to East Gobindapur Pre-Senior

Madrassa and amongst 10 posts, the name of the petitioner found place at serial No. 3. But when the list of the incumbents whose services were

provincialised was prepared for the purpose of payment of salary, the name of the petitioner was excluded therefrom. It is stated that the reason for

such exclusion has arisen because of the date of appointment of the petitioner in the order dated 27.12.2013 of the Director of Madrassa Education.

The date of joining of the petitioner was shown as 26.02.2011 whereas, on facts, the petitioner was appointed on 01.01.2006 and he joined on

03.01.2006.

4. It is further taken note of that on 26.02.2011 the original East Gobindapur Senior Madrassa was bifurcated into two institutions namely 1) East

Gobindapur Senior Madrassa and 2) East Gobindapur Pre-Senior Madrassa respectively. Perhaps, there was some miscommunication within the

respondents leading into the situation where the date of bifurcation was taken to be date of the joining of the petitioner. Such incorrect depiction of the

date of joining of the petitioner can be attributed to certain laches on the part of the respondent authorities rather than it be taken that the petitioner

was actually appointed on 26.02.2011.

5. To this effect, the Headmaster of East Gobindapur Pre-Senior Madrassa has also issued a communication dated 04.05.2014 showing that the date

of appointment of the petitioner as per the record was 01.01.2006 and that the school was bifurcated on 26.02.2011.

6. In view of the above, this Court is of the prima facie view that the date of joining of the petitioner recorded in the order dated 26.12.2013 was

incorrectly depicted.

7. Accordingly, this writ petition stands disposed of by directing the Director of Madrassa Education, Assam to examine the aforesaid claim of the

petitioner by verifying the original records as regards the appointment of the petitioner and thereupon pass a reasoned order indicating the correct date

of the appointment of the petitioner.

8. In the meantime, as provided in the interim order dated 08.09.2015 the respondent authorities shall continue to pay the salary and allowances to the

petitioner. In terms of the above, this writ petition stands disposed of.