
(2021) 03 GAU CK 0011
In the Gauhati High Court
Case No : Writ Petition (C) No. 294 Of 2021

Dipali Sen

APPELLANT

Vs

State Of Assam And 2 Ors

RESPONDENT

Date of Decision : 05-03-2021

Acts Referred:

Citation : (2021) 03 GAU CK 0011

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : A K Dutta

Final Decision : Disposed Off

Judgement

1. Heard Mr. B. Purakayastha, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned counsel for the respondents No. 1, 2 and 3 and Mr. B. Kaushik, learned counsel for the respondents No. 4 and 5.

2. The petitioner was the Headmaster of Badarpur Public M.E. School. Badarpur Public M.E. School was amalgamated with Badarpur Public High School as per the order of amalgamation dated 22.01.2018. After amalgamation, the communication dated 22.01.2018 was issued by the Commissioner & Secretary to the Govt. of Assam addressed to the Director of Secondary Education, Assam providing for the staff pattern of the amalgamated Badarpur Public High School. At Serial No.22 of the said staff pattern of the amalgamated school, the petitioner is shown to be the Headmaster of the erstwhile Badarpur Public M.E. School but in respect of the amalgamated Badarpur Public High School she is shown as Senior Assistant Teacher. As per the Office Memorandum No. ASE.481/2016/17 dated 22.09.2016 of the Secondary Education Department of the Govt. of Assam, as published in the Assam Gazette dated 23.03.2017, in Clause 3(7) thereof, it is provided that after the amalgamation the post of Headmaster of the M.E. School shall be re-designated as Assistant Headmaster of the amalgamated High School. Clause-7 is extracted as below:-

"(7) In the event the highest school is High School, the Headmaster of the High School shall continue after amalgamation. The post of Headmaster of ME School shall be re-designated as Assistant Headmaster with same pay scale whatever they are drawing and the post shall be held by the existing Headmaster of the ME School without requiring the qualification for the post of Assistant Headmaster. However, after cessation of the services of such Assistant Headmaster, the vacancy shall be filled up from the candidates having requisite qualification as per procedure stipulated in the Service Rules in force"

3. The terms of amalgamation provides that the Headmaster of the erstwhile Badarpur Public M.E. School upon amalgamation would be re-designated as the Assistant Headmaster of the High School. In the instant case, the petitioner was the Headmaster of the Badarpur Public M.E. School, which was amalgamated with Badarpur Public High School as per the order dated 22.01.2018 and therefore after amalgamation, the petitioner by operation of law as per the provisions of the Office Memorandum dated 22.09.2016 got re-designated as the Assistant Headmaster of the amalgamated Badarpur Public High School.

4. In view of the above, the respondents are directed to correct the staff pattern of the amalgamated Badarpur Public High School by showing the petitioner to be the Assistant Headmaster. If any contrary view is taken, the respondents may pass a reasoned order to be communicated to the petitioner.

5. The requirement be done within a period of one month from the date of receipt of the certified copy of the order.