

(2023) 11 GAU CK 0024

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 7667 Of 2019

Gitali Bordoloi Das

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 21-11-2023

Acts Referred:

Citation : (2023) 11 GAU CK 0024

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : B Chetri

Final Decision : Disposed Of

Judgement

1. Heard Mr. B Chetri, learned counsel for the petitioner, Mr. SR Das, learned counsel for the Higher Education Department, Government of Assam and Mr. JC Gogoi, learned counsel for the authorities in the Sankardev Mahavidyalaya, Pathalipahar in the Lakhimpur district.

2. The writ petitioner Smti Gitali Bordoloi Das instituted this writ petition, amongst others, with a prayer that either the advertisement dated 06.08.2019 of the Principal Sankardev Mahavidyalaya be set aside or direct the respondents to consider the case of the petitioner as regular Assistant Professor either by regularizing/ sanctioning her post or by adjusting the petitioner in any vacant post.

3. No credible submission has been made justifying either to set aside the advertisement dated 06.08.2019 or for a direction to regularize the service of the petitioner. But, in course of the arguments what has been brought forth before the Court is that the petitioner had been working in the Sankardev Mahavidyalaya as an Assistant Professor in Hindi and had rendered 15 years of service. While participating in the selection process pursuant to the advertisement dated 06.08.2019, there was a deprivation by the selecting authority to give due weightage of the marks to the 15 years of experience and

in the circumstance, IA(Civil) 3348/2019 in WP(C) No. 7667/2019 was instituted by the petitioner, which was given a final consideration by the order dated 21.10.2019, the relevant paragraph 4 of which is extracted as below:-

"4. Learned counsel for the applicant prays that since the interview has already been held on 21.10.2019 (today) at 9.30 A.M. and the recommendation has to be considered by the Governing Body as well as by the Director of Secondary Education Department as per the rules, the authorities may be directed to look into the said claim of the petitioner by taking into consideration of her 15 years of service as an Assistant Teacher (Hindi) and further that, since the petitioner has already submitted a representation on 09.10.2019 before the Chairman of the Governing Body, the Governing Body may consider the said aspect if the Selection Committee had not done so."

4. A reading of the afore-extracted provision in the order dated 21.10.2019 makes it discernible that although the interview may have been held, but as the petitioner had submitted a representation claiming due consideration to her experience of 15 years, therefore, the said claim should be entertained by the respondent authorities in the college selection committee, meaning thereby that upon taking into consideration, to give appropriate weightage for the 15 years of service experience.

5. In view of the aforesaid situation, we required the respondents in the Sankardev Mahavidyalaya to produce the records in origin of the selection that had been held in order to examine as to whether due weightage for the 15 years experience had been given.

6. Mr. JC Gogoi, learned counsel for the respondents in the Sankardev Mahavidyalaya has produced a communication from the Principal in-charge dated 06.01.2020 to the Director of Higher Education, Assam wherein it is stated as extracted:-

"However, it is for your kind information that Miss Gitali Bordoli Das was appointed as an Assistant Professor in the department of Hindi on 25.08.2005 against a Non-Sanctioned post and since then she has been discharging her duty as Assistant Professor and after the death of Lakhima Devi she has been maintaining the classes of the department alone. Miss Bordoloi Das also applied for the said post with teaching experience certificate of this college from the date of her appointment and appeared in the interview board. But the interview board selected Miss Puja Baruah for appointment in the post of Assistant Professor in Hindi on merit basis. But just after the selection of Miss Puja Baruah by the G.B of the college; we received an order of honourable Guwahati High Court's order dated 21.10.2019 passed in IA(C) No. 3348/2019 and order dated 21.10.2019 passed in WP(C) No. 7667/2019 (Smti Gitali Bordoloi Das – Vs- the State of Assam and Ors) that has already been submitted in your office. This is all about the post."

7. It appears from the communication dated 06.01.2020 that due consideration

of weightage for the 15 years of experience of the petitioner in spite of the order dated 21.10.2019 in IA(Civil) 7667/2019 could not be given inasmuch as, the order of the Court was received by the authorities after the interview was over. The said reasoning of the communication dated 06.01.2020 in our view would not be sustainable inasmuch as, the court in its order dated 21.10.2019 in paragraphs 4 and 5 had already taken note of the fair submission of the petitioner that the interview had already been held on 21.10.2019. In spite of taking note of the said factual circumstance, there is a direction from the Court to take note and give due consideration to the 15 years of experience of the petitioner in the selection process.

8. As the Court had taken note of the factual circumstance and in spite of it had issued a direction, we are of the view that receiving the order of the Court after the date of the interview cannot be a reason for the college authorities not to follow the direction of the Court or not to give due consideration to the 15 years of experience of the petitioner.

9. Accordingly, the matter is remanded back to the selection committee of Sankardev Mahavidyalaya to comply with the direction contained in the order dated 21.10.2019 in IA (Civil) 7667/2019 and upon taking note of the 15 years of experience of the petitioner to give adequate weightage in the selection process and thereafter bring the process to its logical end. As it is a matter pursuant to an advertisement of the year 2019, we direct that the requirement be done within a period of one month from the date of receipt of a certified copy of this order.

10. The records produced by Mr. JC Gogoi, learned counsel be returned back. The writ petition is disposed of as indicated above.