
(1999) 04 GAU CK 0010

In the Gauhati High Court

Case No : Civil Rule No. 4943 of 1997 and C.R. No. 5505 of 1997

Jamini Mohan Deka and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 06-04-1999

Acts Referred:

Citation : (1999) 2 GLT 444

Hon'ble Judges : D.N. Chowdhury, J

Bench : Single Bench

Advocate : H. Das, D. Das Roy, J. Talukdar and M. Bhagawati, for the Appellant;
H.N. Sarma, Addl. Sr. G.A., for the Respondent

Final Decision : Allowed

Judgement

D.N. Chowdhury, J.—The issue raised in this Writ petition pertains to the absorption/regularisation of service in Provincialised schools. The Petitioners are 37 in number belonging to the teaching and non teaching staff including Grade IV employees who are working in the following schools provincialised under the State Government in the district of Kamrup:

- a) Baihata Charili Girls High School,
- b) Yogi Satyananda Girls High School,
- c) Padum Kumari Balika High School,
- d) Aijun Dev High School,
- e) Birdutta High School,
- f) Pub-Kamrup Janata High School,
- g) Patidarrang Balika Vidyapeeth,
- h) Madhya Panduri Girls High School,

- i) Jayantipur Jogeswar Vidyapeeth,
- j) Madhukhchi Anchalik Girls High School,
- k) Dadara Balika High School.

It has been stated in respect of Baihata Chariali Girls High School, that the inspector of Schools passed an order dated 22.7.94 and approved the appointment of 12 teaching and non-teaching staff which are mentioned below:

1. KhagenCh Deka,
2. Hemalata Devi,
3. Manika Borbora,
4. Sashadhar Deka,
5. Sabiha Nazrin,
6. Mashelemuddin Ahmed,
7. Jamini Mohan Deka,
8. Dipak Chandra Bhattachaijya,
9. Nazrul Haque,
10. Sridhar Deka,
11. Soneswar Deka,
12. Jogobala Das,
13. Nimati Deka,
14. Anima Das,
15. Taranath Sharma.

Petitioners have stated that as per the SEBA norms, this school should accommodate 16 persons as teaching and non-teaching staff in as much as this schools has five sections. Similar instances are also cited in respect of the remaining schools in the petition.

2. According to the Petitioners Inspector of Schools approved the appointment of all these persons mentioned in this writ petition.

3. Grievance of the Petitioners is that they are all along working in their respective schools since long prior to the provincialisation of their schools on the strength of the valid appointment orders issued by the respective managing committees which were subsequently approved by the inspector of schools. The teacher student ratio in the said schools justifies the services of the Petitioners in these schools and as a matter of fact the respective authorities are utilising their services in the schools without giving them the salaries and other service

benefits.

4. Dr. H. Das, learned Counsel appearing for the Petitioners has submitted that since the Petitioners were working prior to provincialisation and their names were duly recommended by the concerned authority there cannot be any justification in not provincialising the services of the Petitioners on the face of the work load, their qualification etc. Equity, justice and fairness demands the absorption of the persons in a regular manner, submitted Dr. Das. Mr H.N. Sharma, learned Additional Senior Govt. Advocate appearing on behalf of the Respondents submitted that the adjudication of the matter will require a massive exercise of evaluation of facts, inspection and perusal of the individual records etc. Mr Sharma the learned Govt. Advocate further submitted that the final outcome of the decision will depend on numbers imponderables depending on Government policy and in the fitness of the things the matter may be left to the discretion of the Govt. authority. From the facts disclosed above it transpires that the Petitioners are rendering their services in the Schools for a long time prior to provincialisation. Respective cases of the Petitioner no doubt requires consideration by the authority. Considering the facts and circumstances of the case. I am of the view that ends of justice will be met if direction is issued to the Petitioners to make individual representations before the secretary Education Deptt. narrating their grievances. Petitioners are accordingly directed to file their respective representations before the Secy. Education giving all the facts in support of their applications along with substantive materials that was in their possessions within a month of receipt of certified copy of this order. After making such representations the Secretary shall examine the individual cases and pass necessary orders thereafter. The Secretary Education may ascertain the facts situations keeping in mind the length of services and the existing norms, requirement of posts etc. If on consideration, the secretary finds that some of the claims are not acceptable in those cases he shall pass respective orders there on by giving reasons therefore, it is expected that the Secretary shall take necessary action as per law with utmost dispatch within 4 (four) months from the receipt of certified copy of this order.

5. The writ petition is allowed to the extend indicated above, I make no order as to costs.