
(2003) 03 GAU CK 0020
In the Gauhati High Court
Case No : Civil Rule No. 5857 of 1997

Md. Harmuj Ali

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 04-03-2003

Acts Referred:

Citation : (2003) 2 GLR 391

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : A.K. Goswami and A. Talukdar, for the Appellant; A.K. Phukan, AG, for the Respondent

Judgement

Ranjan Gogoi, J.—Heard Mr. A.K. Goswami, learned counsel for the petitioner and Mr. A.K. Phukan, learned Advocate General, Assam who has appeared at the request of the Court.

2. The writ petitioner was appointed as an assistant teacher in Kaniha Kumarpata M. E. Madrassa School on 30.6.1985. The services of five Assistant Teachers of the school were provincialised on 25.3.1987. However, the post in which the petitioner was working, was not covered by the aforesaid provincialised order and the petitioner who continued to serve in the school, has filed the instant petition in the year 1997, contending that the eleven years of service rendered by the petitioner would entitle him for due consideration of his case for regularisation/absorption. It must be noticed that by the time that the writ petition has been finally heard, another six years have elapsed and the petitioner by now, if he continues to be in service, would have rendered almost 17 years of service in the school.

3. The prerogative of consideration of cases of teachers who have been left out from the process of regularisation/absorption is undoubtedly vested in the State Government. So also, the period of length of service which would entitle a person for regularisation is best left to the discretion of the authority. The Courts have

consistently taken the aforesaid view because of the fact that the question of regularisation of employees who have rendered a particular length of service would depend on several facts and circumstances of which the State authority is the best judge, However, in some rare cases, the Courts have not hesitated to issue a writ of Mandamus and/or directions of like nature compelling the State authority to act in a particular manner, in situations where such directions were considered appropriate.

4. Mr. Phukan, learned Advocate General, Assam has submitted before the Court that insofar as the State of Assam is concerned, a policy decision has been taken by the State Government that the cases of the dropped teachers who were appointed two years prior to the provincialisation of the school would be regularised. The petitioner does not satisfy the aforesaid requirement as he had rendered about one year eight months service prior to the provincialisation of the school effected in the year 1987: The policies framed by the State are made for the benefit of the citizens and exceptions to such policies are not unknown. If the equity so demands, some departure from the norms Set under a policy would be justified. The petitioner in the present case would have rendered almost 17 years of service by this time, if his claims to be in employment are found to be true.

5. Having regard to the length of service which the petitioner claims to have been rendered, this Court is of the considered view that the case of the petitioner should be suitably considered by the authority for regularisation in accordance with the policy stated to be in force by the learned Advocate General, if necessary, by making such departures from the said policy as the facts of the present case would require. This Court is confident that the case of the petitioner would receive the attention that it deserves at the hands of the authority within a period of six months from the date of production of a certified copy of this order.

6. The writ petition stands closed in terms of the above directions.