
(2018) 04 GAU CK 0064
In the Gauhati High Court
Case No : WP(C) 3861 of 2016

MD. SAMSUL HAQUE

APPELLANT

Vs

THE STATE OF ASSAM AND 2 ORS

RESPONDENT

Date of Decision : 19-04-2018

Acts Referred:

Assam Junior Colleges (Provincialization) Act, 2012 — Section 3

Citation : (2018) 04 GAU CK 0064

Hon'ble Judges : MANOJIT BHUYAN

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Heard Mrs. N. Saikia, learned counsel for the petitioner as well as Mr. N. Sarma, learned counsel representing Respondent Nos.1 and 2. Also heard

Mr. R. Borpujari, learned counsel representing the Finance Department i.e. Respondent No.3.

2. The petitioner who is serving as a Lecturer in Arabic at Pathsala Mahavidyalaya (Junior) claims regularization in service on the strength of the

Office Memorandum dated 02.03.2016 issued by the Government of Assam in the Secondary Education Department.

3. Petitioner was appointed as Arabic Teacher on 25.08.2013, following resolution adopted by the Governing Body of Pathsala Mahavidyalaya (Junior)

in the meeting dated 09.10.2013. The said appointment came about following the termination of the earlier incumbent, one Md. Bahadur Ali.

4. Whether the benefit of regularization in service in terms of the Office Memorandum dated 02.03.2016 and/or under the provisions of the Assam

Junior Colleges (Provincialization) Act, 2012 (in short, "the Act of 2012") can be extended to the petitioner is primarily the point for determination

in the present case.

5. The Respondent No.2 i.e. the Director of Secondary Education, Assam has filed affidavit-in-opposition taking a stand that the petitioner cannot

consider himself to be a dropped Lecturer as he had joined the institution after long 13(thirteen) years from the date when the college was brought

under the deficit system of grants-in-aid. Further, in terms of Section 3 read with the Schedule thereof as well as in terms of the Office Memorandum

dated 02.03.2016, the petitioner not being a person appointed prior to 01.02.2001 is not entitled to claim regularization in service.

6. I have heard the counsel for the parties and have also perused the materials on record.

7. Section 3 of the aforesaid Act of 2012 envisages that all existing employees, both teaching and non-teaching of the Junior Colleges as specified in

the Schedule appended to the Act, shall be deemed to have been provincialised and become employees of the State Government on and from the date

on which the Junior Colleges were brought under the deficit system of grants-in-aid. As per the Schedule appended to the Act, Sl. No.3 mentions the

name of Pathsala Mahavidyalaya (Junior) and the date i.e. 01.02.2001 is recorded as the date of the college coming under the deficit system of

grants-in-aid. The Office Memorandum dated 02.03.2016 also clearly mentions to the effect that only the Teachers (Lecturers) who were appointed

before 01.02.2001 in respect of the 48 Junior Colleges (Pathsala Mahavidyalaya (Junior) being one among the 48 Junior Colleges) will be regularized

subject to the conditions mentioned therein. Clearly, the petitioner herein was appointed on 25.08.2013 and does not come within the purview of the

Teachers (Lecturers) mentioned in clause 6 of the Office Memorandum dated 02.03.2016.

8. On plain reading of Section 3 of the Act of 2012 read with the Schedule thereof and that of the Office Memorandum dated 02.03.2016, I am of the

firm opinion that the relief claimed by the petitioner for regularization of service cannot be granted. In this view of the matter, I find no merit in the

writ petition and the same stands dismissed, however, without any order as to cost.