
(2018) 05 GAU CK 0007
In the Gauhati High Court
Case No : WP(C) 2712 of 2014

RAJIB BARUAH

APPELLANT

Vs

THE STATE OF ASSAM AND 5 ORS

RESPONDENT

Date of Decision : 10-05-2018

Acts Referred:

Citation : (2018) 05 GAU CK 0007

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. B.D. Goswami, learned counsel for the petitioner and Mr. N. Sarma, learned Standing Counsel for the Elementary Education

Department, Government of Assam.

2. The petitioner claims to have been appointed as a Teacher in the year 1999 under the Operation Black Board (OBB) Scheme related to 4040

numbers of posts. It is an admitted position that pursuant to several judicial pronouncements, a consideration was given for regularizing the teachers

appointed under the OBB Scheme of 4040 posts.

3. It is stated by Mr. N. Sarma, learned Standing Counsel for the Elementary Education Department that pursuant to such exercise, about 2173

teachers were regularized and the said list was also produced before a Division Bench of this Court, which had accepted the same. In the said

Division Bench proceeding, a stand was also taken by the respondent authorities that no further teachers are left out from being considered for

regularization under the OBB Scheme of 4040.

4. But, on the other hand, the petitioner makes a claim that his case for

consideration was left out in the earlier exercise. In the meantime, the respondent authorities had initiated another screening process of examining the claims of all such teachers, who according to the respondents, were illegally appointed between the years 1991 to 2001. It is stated that in the said screening process, the case of the petitioner was given a consideration and Mr. N. Sarma, learned Standing Counsel for the Elementary Education Department further relies upon certain documents, which shows the result of such screening test and by relying upon such documents, makes a statement that the claim of one Rajib Baruah was rejected by the North Assam Division. But, it cannot be ascertained as to whether the said Rajib Baruah and the writ petitioner Rajib Baruah are one and the same.

5. Further, the respondents in paragraph-6 of their affidavit in opposition had taken a specific stand that the petitioner had not annexed any documents, which may indicate that he had participated in a selection process and that a resultant select list shows his name in order of merit. Accordingly, a stand has been taken in the affidavit that it seems that the petitioner was not selected and appointed pursuant to any valid selection. The said stand of the respondents also does not appear to be a categorical stand that the petitioner was not selected and appointed pursuant to any selection process.

6. The petitioner, on the other hand, by filing an affidavit in reply, in paragraph-5 takes a stand that in the screening process held on 08.08.2014, he had submitted all the papers including the certificates indicating that he is continuing in service. A further stand has been taken that about 6 or 7 officials, who had verified his documents, did not raise any objection at the time of submission of the documents.

7. But, be that as it may, when the records are being sought for, which may contain any such specific reasoned order that the respondent authorities may have passed against the claim of the petitioner, it is found that no such order could be produced. In such view of the matter, it is deemed appropriate that the interest of justice would be met if the respondent authority being the Commissioner and Secretary to the Government of Assam in the Elementary Education Department examines the claim of the petitioner and pass a reasoned order as to whether he is entitled to be regularized on the basis of his claim that he was appointed as an OBB teacher against the 4040 posts. In doing so, the Commissioner and Secretary shall provide the

petitioner with the opportunity to produce any relevant material that he may desire to produce in order to substantiate his claim and on the other hand,

the Commissioner shall also consult the available record and arrive at a reasoned decision on the claim of the petitioner.

8. The petitioner also claims that as per the communication dated 31.12.1999 of the Director of Elementary Education, Assam, three schools are

indicated, in which certain appointments were made and the name of the petitioner school appears at Serial No.2. It is also stated that one Smti

Rashmi Rekha Deka, who was appointed in the Raha Government Senior Basic School, which appears at Serial No.3, had in the meantime already

been regularized.

9. The Commissioner and Secretary while passing the reasoned order, shall also consider the stand of the petitioner that one Smti Rashmi Rekha

Deka, who was appointed in Raha Government Senior Basic School had in the meantime been already regularized, whereas the petitioner, who was

appointed in Urban Government Senior Basic School as indicated in the communication dated 31.12.1999 is yet to be regularized. In doing so, the

Commissioner and Secretary shall also intimate the petitioner the date and time, on which he is required to appear before him for substantiating his

claim.

10. The aforesaid exercise of passing the reasoned order be carried out by the Commissioner and Secretary within a period of three months from the

date of receipt of a certified copy of this order. In terms of the above, the writ petition stands disposed of.