

(2018) 04 GAU CK 0034
In the Gauhati High Court
Case No : WP(C) 6169 of 2017

RUHUL AMIN MUGHAL

APPELLANT

Vs

THE STATE OF ASSAM AND 5 ORS

RESPONDENT

Date of Decision : 04-04-2018

Acts Referred:

Assam Secondary Education (Provincialisation) Service Rules, 2003 — Section 14(3)

Citation : (2018) 04 GAU CK 0034

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. A.R Sikdar, learned counsel for the petitioner, Mr. N. Sarma, learned Standing Counsel for the Secondary Education Department as well

as Elementary Education Department of the Government of Assam and Mr. D.A Kaiyum, learned counsel appearing for the respondent No.6.

2. The petitioner is the senior most Assistant Teacher as well as the In-charge Headmaster of the Takimari MV School. On the other hand, the

respondent No.6 is the regular Headmaster of Takimari Chowali ME Madrassa. Both the schools were amalgamated with the Takimari High School

as per the order dated 31.03.2017. As a result, a dispute has arisen for adjudication as to who between the petitioner and the respondent No.6 ought to be the Assistant Headmaster of the amalgamated High School.

3. The law in this regard is provided under Rule-14(3) of the Assam Secondary Education (Provincialisation) Service Rules, 2003, wherein it is

provided that in case of amalgamated High School, the Headmaster/Head Mistress of the ME School is eligible for selection as the Assistant

Headmaster/ Assistant Head Mistress of the amalgamated High School subject to certain conditions. Accordingly, it is to be construed that the

Headmaster of the ME School, which is amalgamated with the High School is to be the Assistant Headmaster of the amalgamated High School.

4. In the instant case, two ME Schools were simultaneously amalgamated with the High School and therefore, a question would arise as to who

between the two should be the Assistant Headmaster. Ordinarily, we could have taken the view that the senior amongst the two Headmasters would

be natural choice to be the Assistant Headmaster of the amalgamated High School. But, in the instant case, it is noticed that the writ petitioner is the

In-charge Headmaster of the Takimari MV School, which in other words means that his substantial appointment is an Assistant Teacher and not a

Headmaster and from such point of view, this Court do not find any infirmity in the order dated 26.07.2017, by which the respondent No.6 was

allowed to be the Assistant Headmaster of the amalgamated High School on the strength of he being the Headmaster of the Takimari Chowali ME

Madrassa.

5. But, however, Mr. A.R Sikdar, learned counsel for the petitioner raises the issue that for all purpose, the petitioner has the required qualification for

being the Headmaster of Takimari MV School and he ought to have been appointed as the Headmaster of the said school based on his qualification

and eligibility. It is further submitted that had the petitioner been duly appointed, it was he who would have been the Assistant Headmaster of the

amalgamated High School.

6. In view of such submission, the petitioner is allowed to make a representation before the Director of Secondary Education, Assam, who shall give a

due consideration to such claim of the petitioner and pass a reasoned order thereon. In the said proceeding, for the ends of justice, the respondent

No.6 be also given an opportunity of hearing to present his case before the Director.

7. In view of the final consideration of the writ petition, the interim order passed on 22.09.2017 stands vacated. In terms of the above, the writ petition

stands disposed of.