
(2018) 01 GAU CK 0091
In the Gauhati High Court
Case No : 371 of 2016

SRI DINESH CHOUHAN

APPELLANT

Vs

THE STATE OF ASSAM and ORS

RESPONDENT

Date of Decision : 10-01-2018

Acts Referred:

Citation : (2018) 01 GAU CK 0091

Hon'ble Judges : Ajit Singh, Manojit Bhuyan

Bench : Division Bench

Advocate : B AHMED, D NATHR

Final Decision : Dismissed

Judgement

1. This intra court appeal is directed against the order dated 8.12.2014 passed by the learned Single Judge of this High Court whereby he has

allowed WP(C) No.6725/2013 of Respondent No.5.

2. Respondent No.5 is a B.Sc.(Agri) degree holder. He also has B.Ed. degree to his credit. Following a resolution of the Managing Committee of

Cherapathar Hindi High School, Karbi Anglong, Respondent No.5 was appointed as Assistant Teacher (Science) in that School on 21.12.1990.

Thereafter, Respondent No.5 joined the School on 7.1.1991. The Inspector of Schools, Karbi Anglong District Circle, also approved the

appointment of Respondent No.5 as Assistant Teacher (Science). In the same School, appellant too was appointed as Assistant Teacher

(Science) whereafter he joined on 1.12.2003 i.e. much after the joining of Respondent No.5. The Government of Assam took steps for

provincialisation of venture educational institutions including Cherapathar Hindi High School. As per requirement, the Headmaster of the School i.e.

Respondent No.4 submitted particulars of the teaching and non-teaching staff to the authorities of the Education Department. And while forwarding the list of teaching and non-teaching staff, the Headmaster erroneously showed the name of Respondent No.5 under the category of Assistant Teacher (BA/B.Com). The Headmaster however in the column earmarked for educational qualification, mentioned the qualification of Respondent No.5 as B.Sc.(Agri), B.Ed. The Director of Secondary Education, Assam allotted total 8 posts in the School which included 2 posts for graduate teachers (Science). He also provincialised the services of appellant as Assistant Teacher (Science) and mentioned the name of Respondent No.5 as Assistant Teacher with a remark "excess". Respondent No.5 shocked with the decision of Director of Secondary Education to provincialise the services of appellant as Assistant Teacher (Science) and treating him as "excess" made a representation dated 25.9.2013 for correction of mistake but the same fell into deaf ears. Aggrieved, he then filed writ petition, which the learned Single Judge has allowed by the impugned order.

3. The learned Single Judge has held that Respondent No.5 was appointed as Assistant Teacher (Science) whereafter he joined on 7.1.1991. The learned Single Judge also took note of the fact that the qualification B.Sc (Agri), B Ed of Respondent No.5 was duly approved by the Inspector of Schools on 10.10.1991 whereas the appellant was appointed much later on 1.12.2003. According to the learned Single Judge since Respondent No.5 was much senior to the appellant he could not have been treated as "excess" and his services alone ought to have been provincialised. On these findings, the learned Single Judge quashed the provincialisation of the appellant and directed the authorities of the Education Department to provincialise the services of Respondent No.5.

4. It is stated at the Bar that in compliance of the order passed by the learned Single Judge, the State Government has provincialised the services of Respondent No.5 after cancelling the provincialisation of the appellant. Aggrieved the appellant has filed the present appeal.

5. It is argued on behalf of the appellant that the length of service could not have been the basis for provincialisation of Respondent No.5 because the appellant has B. Sc.(Science) Degree with Physics, Chemistry & Mathematics

combination whereas Respondent No.5 has only B.Sc (Agri) & B Ed. We are however not impressed with this submission. We say so because as seen above Respondent No.5 was appointed as back as in the year 1991 as Assistant Teacher (Science) and his qualification of B.Sc(Agri) & B Ed degree was duly approved by the Inspector of Schools. He is in fact one of the senior most teacher of the school. Also Respondent No.5 was denied provincialisation by illegally treating him as "excess" and not on the ground of being ineligible. The impugned order passed by the learned Single Judge is well-founded and unassailable. The learned counsel for the appellant could not point out any illegality in the order.

6. The appeal has no merit and is accordingly dismissed.