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**(2019) 02 GAU CK 0030**

**In the Gauhati High Court**

**Case No : Writ Petition (C) No. 6556, 5082 Of 2013**

Zakir Hussain Tapadar

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

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**Date of Decision : 12-02-2019**

**Acts Referred:**

**Citation : (2019) 02 GAU CK 0030**

**Hon'ble Judges : Manojit Bhuyan, J**

**Bench : Single Bench**

**Advocate : M Mallik, MR Choudhury**

**Final Decision : Disposed Off**

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## **Judgement**

Heard Mr. I.A. Talukdar, learned counsel for the petitioner in WP(C) 6556/2013 as well as Ms. P. Chutia, learned counsel for the petitioner in WP(C) 5082/2013 and Mr. N. Sarma, learned counsel representing the Secondary Education Department, Assam, in both the cases.

The petitioner in WP(C) 6556/2013 i.e. Md. Jakir Hussain Tapadar had responded to an Advertisement dated 26.11.2012 for a Grade-IV post at Marjat Kandi Public Higher Secondary School, Karimganj. It is stated that he was selected but the matter did not proceed further as in the meantime the writ petitioner in WP(C) 5082/2013 i.e. Md. Hussain Ahmed Siddique approached this Court challenging the Advertisements dated 10.10.2012 and 26.11.2012.

Contention put forth in WP(C) 5082/2013 is that the petitioner Md. Hussain Ahmed Siddique was serving as Grade-IV employee in the school since his appointment on honorary basis on 29.01.1995. Although he had responded to the Advertisements dated 10.10.2012 and 26.11.2012, pursuant to which recruitment test was conducted on 31.10.2012 and 16.12.2012, the results thereof was not notified. Apprehension was expressed that the post may be filled up surreptitiously on extraneous consideration. While issuing notice in the said WP(C) 5082/2013, this Court passed an interim order directing that status quo

be maintained as regards appointment to the Grade-IV vacancy in the school pursuant to aforesaid Advertisements dated 10.10.2012 and 26.11.2012.

It appears from the above that whereas Md. Jakir Hussain Tapadar could not secure appointment despite being placed at merit position no. 1 in the selection process due to the interim order passed by this Court in other WP(C) 5082/2013, the case of the other writ petitioner in WP(C) 5082/2013 i.e. Md. Md. Hussain Ahmed Siddique is that his claim for appointment on compassionate grounds has remained in cold storage for about 24 years.

Following directions of this Court, Mr. N. Sarma have obtained instructions and submits that as on date the Marjat Kandi Public High School has merged with Marjat Kandi Public Higher Secondary School and is presently known by the latter name. It is further stated that in terms of the letter dated 30.11.2018, issued from the Office of the Principal, Marjat Kandi Public Higher Secondary School, Karimganj there are 2 (two) clear vacancies in Grade-IV category, 1 (one) arising on 30.09.2015 and the other on 09.03.2017. From the written instruction received by Mr. Sarma from the Director of Secondary Education, Assam vide letter dated 10.12.2018 it is seen that a view has been expressed that Md. Jakir Hussain Tapadar can be adjusted/accommodated in a vacant post of Grade-IV in the school, which fell vacant after the process of amalgamation. This being the stand of the State respondents, this Court would observe that necessary action are required to be taken by the Director of Secondary Education, Assam towards adjusting/accommodating Md. Jakir Hussain Tapadar in terms of the view expressed in the communication dated 10.12.2018. In so far as Md. Hussain Ahmed Siddique is concerned and having regard to his long pending claim and the fact that there is yet another clear vacancy in Grade-IV level in the same amalgamated school, let a decision be taken by the Director of Secondary Education, Assam for considering the adjustment/accommodation of said Md. Hussain Ahmed Siddique against the other vacant post in the school. Let a decision to the aforesaid end be taken as expeditiously as possible, preferably within a period of 4 (four) weeks from today.

With the above observation and direction, both the writ petitions stand disposed of.

The letter dated 10.12.2018 issued by the Director of Secondary Education, Assam and so produced before this Court by Mr. Sarma be retained as part of the records.