

GAHC010022282017



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WP(C)/2732/2017

MD. ABDUS SAMAD SHEIKH
S/O. LT. SAFFARUDDIN SHEIKH, VILL. BIJOYPUR, P.O. AMBARI, P.S.
GOALPARA, DIST. GOALPARA, ASSAM, WORKING AS A GRADE-III STAFF
LDA IN PADUPARA ANCHALIK MADRASSA HIGH SCHOOL.

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, EDUCATION
DEPTT., DISPUR, GHY.-06.

2:THE DIRECTOR
EDUCATION SECONDARY ASSAM
KAHILIPARA
GHY.-19.

3:THE INSPECTOR OF SCHOOLS
GOALPARA DISTRICT CIRCLE
GOALPARA
ASSAM.

4:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION ELEMENTARY DEPTT.
DISPUR
GUWAHATI-06 AND MEMBER SECRETARY OF HIGH POWER COMMITTEE
DISPUR
GHY.-06

Advocate for the Petitioner : MS.K DEVI

Advocate for the Respondent : SC, SECONDARY EDUCATION

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 31.05.2024

Heard Mrs. K. Devi, learned counsel for the petitioner as well as Mr. B. Kaushik, learned standing counsel, Secondary Education Department for all the respondents.

2. The petitioner was appointed as an Office Assistant in Padupara Anchalik Madrassa High School by an appointment letter dated 20.06.1994, issued by the Head Master of the said School on the basis of resolution passed by the Managing Committee of the said School. Petitioner joined to the said post on 20.06.1994. The Inspector of Schools, GDC Goalpara by an order dated 19th of November, 1994 provisionally approved the appointment of four incumbents of Padupara Anchalik Madrassa High School. The name of the petitioner appears at Sl. No.4 in the said order dated 19th of November, 1994. The teaching and non-teaching staffs of the Padupara Anchalik Madrassa High School was provincialised on 22.03.1996. However, the name of the petitioner was dropped.

3. On the directions passed by this Court by order dated 04.12.2014, passed in WP(C)/2996/2010, the case of the petitioner was placed before the High Power Committee. The High Power Committee in its meeting held on 16.02.2016, could not recommend the case of the petitioner on the ground that there is no provision of the post 2nd L.D.A. in a Madrassa High School.

4. The relevant portion of the resolution of the High Power Committee which held its meeting on 16.02.2016 reads as under:

"The matter of Abdus Samad Sheikh of Padupara Anchalik Madrassa High School was placed before the committee. The Committee finds that the petitioner prayed for regularization of his service as 2nd L.D.S of the School. But there is no provision of the post 2nd L.D.A. in a Madrassa High School. Therefore the name of the petitioner is not recommended as dropped L.D.A. of the school."

5. Mrs. K. Devi, learned counsel for the petitioner has drawn the attention of this Court to the order dated 24th of September, 2012, which is annexed as Annexure-B to the additional affidavit filed by the petitioner by which 116 numbers dropped non-teaching staffs (17 Nos. LDA and 99 Nos. Grade-IV) are appointed in different schools shown against their names. She submits that the case of the petitioner is similarly situated with the person appearing at Sl. No.4 in the order dated 24th September, 2012 namely, Amir Uddin who was appointed against Uttar Barpeta High School. The order dated 24th of September, 2012 is reproduced herein below:

*"GOVT. OF ASSAM
OFFICE OF THE DIRECTOR OF SECONDARY EDUCATION, ASSAM,
KAHILIPARA, GUWAHATI - 19.
ORDER*

In pursuance of Govt. letter No. ELC/WP(C). 3586/2001/803/702, dtd. 23-4-2012 the following 116 nos. dropped non-teaching staff (17 nos, LDA & 99 nos. Grade -IV) are hereby appointed in the schools shown against their names with prospective effect.

This has been issued with the approval of Finance (SIL) Deptt. vide their approval No. FSI. 664/2011, dtd. 29-2-2012.

The appointee concerned has to furnish an undertaking before joining in the school as prescribed by the finance (Budget) Department issued vide their letter No. BW/S/2003/Pt-II/1, dtd. 25-1-2005 regarding introduction of "New pension rule 2005" along with their joining report.

<i>Sl. No.</i>	<i>District</i>	<i>Name of appointee</i>	<i>Design action</i>	<i>Name of School Where appointed</i>	<i>Scale of Pay</i>
1	Barpeta	Md. Fajlur Rahman	LDA	Balikuri HSS	Scale of pay of Rs. 5200- 20200/- with Grade pay of Rs. 2200/- P.M. (under pay band-II)
2	-Do-	Kailash Talukdar	-Do-	Chenglamari	-Do-
3	-Do-	Md.Anjir Ali	-Do-	Mazdia HS	-Do-
4.	-Do-	Amir Uddin	-Do-	Uttar Barpeta HS	-Do-
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*Sd- Shri B.L.Sarma, ACS
Director,
Secondary Education, Assam,
Kahilipara, Guwahati-19"*

The learned counsel for the petitioner submits that the case of the petitioner is similarly situated with that of the said Amir Uddin.

6. Mr. B. Kaushik, learned standing counsel, Secondary Education Department submits that the respondents may be directed to reconsider the matter as to whether the case of the petitioner is similar with that of the said Amir Uddin.

7. Accordingly, this writ petition is disposed of directing the respondent authorities to consider the claim of the petitioner and if it is found that the petitioner is similarly situated as the aforesaid Amir Uddin, similar treatment may be afforded by giving appointment to the post of L.D.A. in the said school which exercise shall be undertaken and completed within a period of 3(three) months from the date of receipt of a certified copy of the order of this Court.

8. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant