

GAHC010058562021



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

Case No. : WP(C)/2276/2021

DR. BHASKAR SARMAH
S/O SRI KRISHNA SARMAH
VILLAGE BHERUADALI, PO DUNI,
PS SIPAJHAR, DIST DARRANG, ASSAM

VERSUS

1: THE COTTON UNIVERSITY AND 3 ORS
REPRESENTED BY THE REGISTRAR, COTTON UNIVERSITY,
GUWAHATI 781001

2: THE REGISTRAR
COTTON UNIVERSITY GUWAHATI 781001

3: THE SELECTION COMMITTEE CONSTITUTED FOR THE RECRUITMENT
TO THE POST OF ASSISTANT PROFESSOR/PROFESSOR/ASSOCIATE
PROFESSOR IN THE VARIOUS DEPT. OF THE COTTON UNIVERSITY
REPRESENTED BY THE VICE CHANCELLOR COTTON UNIVERSITY
GUWAHATI 781001

4: THE SECRETARY UNIVERSITY GRANTS COMMISSION
BAHADURSHAH ZAFAR MARG NEW DELHI 10002
REPRESENTED BY THE JOINT SECRETARY UGC HOUSEFED
COMPLEX BELTOLA GUWAHATI 78100

Advocate for the Petitioner : MR MINTU SAIKIA

Advocate for the Respondent : SC, COTTON UNIVERSITY

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 04-01-2024

Heard Mr. M. Saikia, learned counsel for the petitioner. Also heard Mr. P.D. Nair, learned standing counsel, Cotton University, representing the respondent Nos.1, 2 & 3 and Ms. P. Agarwal, learned counsel appearing for the respondent No.4.

The petitioner, by way of instituting the present writ petition, has prayed for a direction upon the respondent authorities to appoint him as an Assistant Professor in the Department of Chemistry, Cotton University under Economically Weaker Section (EWS) category.

The facts requisite for consideration of the issue arising in the present proceeding are noticed herein under.

The petitioner, in pursuance to an advertisement dated 19.06.2019 issued by the Registrar, Cotton University, Guwahati inviting applications, amongst others, for the posts of Assistant Professor in the Department of Chemistry, had submitted his application for consideration against the post of Assistant Professor advertised in the said Department against the EWS quota. As projected in the writ petition, the petitioner being found to be eligible was shortlisted for such consideration and he was the lone candidate shortlisted for the post of Assistant Professor in the Department of Chemistry against EWS quota. The petitioner accordingly participated in the interview held in pursuance to the said advertisement dated 19.06.2019. However, in the list of faculty members, who had joined their respective services in pursuance to the advertisement dated 19.06.2019 came to be published and therein the name of the petitioner not figuring, the present writ proceeding has been instituted by

the petitioner.

I have heard the learned counsel appearing for the parties and have also perused the materials available on record.

The petitioner was shortlisted for the post of Assistant Professor in the Department of Chemistry against EWS quota and had participated in the selection process. From the affidavit filed by the respondent Cotton University in the matter, it is found that the Selection Committee, upon consideration of the case of the petitioner, had recommended that none of the candidates was found suitable for appointment against the post of Assistant Professor in the Department of Chemistry against EWS quota. The said recommendation of the Selection Committee was approved by the Executive Council of the University in its meeting held on 18.02.2021. The other candidates found suitable for the posts of Assistant Professor in the Department of Chemistry were appointed in the meanwhile. The affidavit as filed by the respondent Cotton University further reveals that a further advertisement was issued on 08.10.2021 for the posts of Assistant Professors in the Department of Chemistry under EWS quota and the petitioner herein had again applied in pursuance to the said advertisement. It is to be noted here that the petitioner had instituted the present proceeding on 19.03.2021 and the subsequent advertisement was issued on 08.10.2021. However, the petitioner had not taken any leave from this Court to participate in the said proceeding. The selection process in pursuance to the said advertisement dated 08.10.2021 was taken to its logical conclusion and one Rupinder Singh was selected and appointed after following all formalities against the post of Assistant Professor in the Department of Chemistry against EWS quota. The appointment of said Shri Rupinder Singh against the post in question is not under challenge in the present proceeding.

The petitioner having participated in the subsequent selection process without having taken any leave from this Court, it is to be construed that he has given up his claim for being appointed in the post of Assistant Professor in the Department of Chemistry against EWS quota in pursuance to the advertisement dated 19.06.2019 and the said post which had remained vacant being filled up in the selection process initiated in pursuance to the advertisement dated 08.10.2021 and the petitioner also having participated therein, the claim made in the present writ petition is not sustainable and as such, the writ petition is not maintainable.

In view of the said conclusion and also the fact that the petitioner had duly participated in the subsequent recruitment exercise initiated vide advertisement dated 08.10.2021 and on conclusion of which a duly selected person was appointed against the post in question and the post of Assistant Professor in the Department of Chemistry against EWS quota having been filled up and the petitioner having no grievance against the said selection and appointment effected in pursuance to the advertisement dated 08.10.2021, the claim made in the writ petition is without any merit and accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant