

(2006) 02 GAU CK 0030

Gauhati High Court

Case No: WP (C) No. 3889 of 2000

Juber Ahmed

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision: Feb. 9, 2006

Citation: (2006) 109 FLR 472 : (2006) 2 GLR 775

Hon'ble Judges: Brojendra Prasad Katakey, J

Bench: Single Bench

Advocate: B. Ahmed and N. Hoque, for the Appellant; N. Ahmed, for the Respondent

Judgement

B.P. Katakey, J.

By this writ petition, the petitioner claims appointment as Asstt. Teacher in the Middle or L.P School in Karimganj District against 10% vacancy stated to have kept reserved by the Government of Assam for the purpose of sons and daughters of retired school teachers.

2. The petitioner's case is that his father who was a Hindi teacher in Mothair Ali M.V. School in the district of Karimganj retired from service on 31.5.2000 and thereafter he filed an application before the District, Elementary Officer, Karimganj claiming appointment as Asstt. Teacher under the 10% of the vacancy kept reserved by the Government for appointment of sons and daughters of the retired school teachers. The petitioner's further case is that he was a candidate pursuant to the advertisement issued in the year 1996 for selection to the post of Asstt. teacher in L.P/Middle school in his district but no select list has been published.

3. I have heard Dr. B. Ahmed, learned Counsel for the petitioner and Mr. N. Ahmed, learned standing counsel. Education Department appearing on behalf of the respondents. No affidavit-in-opposition has been filed and no record has been produced.

4. The petitioner has claimed appointment against the 10% reserved vacancy stated to have kept reserved by the Government for sons and daughters of the retired

school teachers for appointment as Asstt. teacher. As because certain vacancies are kept reserved by the Government it does not mean that the authority can make appointment against such vacancies without there being any advertisement and selection. It appears from the statement made in the writ petition that the petitioner claims appointment even without there being any selection. The school in which petitioner claims appointment being provincialised school, the authority is bound to follow procedure laid down in the Assam Elementary Education (Provincialisation) Act, 1974 (in short 1974 Act) and the rules framed thereunder. Without following due process of law without there being an advertisement and selection the authority cannot appoint any person on regular basis and even for any vacancy which has been kept reserved for any particular category of persons. The further case of the petitioner is that he appeared in an interview pursuant to the advertisement issued in the year 1996 but no result has been declared. The petitioner has filed the present writ petition in a year 2000 questioning non-publication of result of the interview conducted pursuant to the advertisement issued in the year 1996. Because of delay and laches on the part of the petitioner such dispute cannot be allowed to be raised.

5. In view of the above, the writ petition is devoid of any merit and hence the same is dismissed. However, in the event the authority issue any advertisement for the purpose of selection of Asstt. teacher in Middle/L.P school, it is open to the petitioner to make application pursuant to such advertisement claiming selection against any reserved category post and in the event if making such application, the authority will definitely consider the said application for selection pursuant to such advertisement along with other applicants subject to fulfilment of the eligibility criteria.

6. The writ petition is accordingly disposed of.