

THE HON'BLE JUSTICE SMT. A. HAZARIKA

Heard Mr, BP Bora, learned Sr. counsel assisted by Mr. D. Bora, learned counsel for the petitioner. Also heard Mr. MR Pathak, learned standing counsel, Education Department and Mr. J. Chutia, learned counsel appearing for Respondent Nos. 3 and 4.

The petitioner's case in brief is that pursuant to an advertisement dated 8.7.05 inviting applications for the post of Lecturer in the department of History in Dhemaji College, the petitioner had applied for the same having required qualification in Master degree in History. Thereafter, she appeared before the selection committee, Dhemaji College. Vide resolution No.5 dated 16.9.05 the Governing Body of Dhemaji College appointed her as Lecturer in the vacant post of History reserved for ST(P) on temporary basis on a consolidated pay of Rs.2000/- per month with effect from 14.11.05. Vide letter dated 23.9.05 the then Principal of Dhemaji College forwarded a copy of the resolution adopted by the Governing Body, report of Selection Committee, advertisement alongwith other particulars of the writ petitioner to the Director of Higher Education Assam for prior approval and thereafter on 14.11.05, the petitioner has been appointed as Lecturer in the department of History in the Dhemaji College on temporary basis. When the matter rested as thus the Principal and Secretary, Dhemaji College again issued an advertisement for filling up two posts in the department of History of the College, one post reserved for ST(P), another unreserved, alongwith some other posts which was published in the Assam Tribune dated 4.3.06, meaning thereby ouster of the petitioner from the post she was holding since 14.11.05.

Being aggrieved by the aforesaid advertisement, the petitioner has approached this Court praying for setting aside and quashing the impugned advertisement under No. DC/Estt/05-06 dated 28.2.06 published in the Assam Tribune dated 4.3.06 (Annexure-H).

An affidavit-in-opposition has been filed by the Respondent No.2, Director of Higher Education, Assam wherein it has been contended that the Principal, Dhemaji College with the approval of Director of Higher Education published an advertisement on 8.7.05 inviting applications from candidates having UGC norms with NET/SLET for the post of Lecturer in vacant sanctioned posts in the department of History and other two subjects of Dhemaji College. The petitioner applied for the same and appeared for the interview alongwith other candidates. Thereafter vide resolution No.5 dated 16.9.05 the Governing Body of the college appointed the petitioner as Lecturer in the vacant sanctioned post of History and subsequently vide letter dated 23.9.05, the then Principal of Dhemaji College, forwarded the copy of the said resolution alongwith Selection Committee's report and particulars of the candidates to the Respondent No.2 for approving the appointment of the petitioner. However, Respondent No.2 after perusal of the proposal alongwith relevant records and Governing Body's resolution No.5 dated 16.9.05 found that the selection of the petitioner is irregular, inasmuch as, the petitioner did not have the required qualification of NET/SLET as per UGC requirements and therefore, the respondent No.2 passed a speaking order dated 28.10.05 making it clear therein the reason for not approving the appointment of the petitioner in the post of Lecturer in the department of History, as it was clearly mentioned in the advertisement that candidates must possess UGC norms with NET/SLET, whereas, the petitioner was without NET/SLET. However, without obtaining prior approval from the respondent No.2, the petitioner was appointed temporarily by the college authority on a consolidated pay of Rs.2,000/- per month due to shortage of staff. Accordingly the petitioner was discharging duty for sometime. The Governing Body of the college, thereafter, in pursuance of the order dated 28.10.05, passed by Director of Higher Education, Assam vide resolution No.3 dated 1.3.06 decided to re-advertise the said post as per Rule 19(IV) of the Assam Non Government College Management Rules, 2001(as amended) and that was the reason for publishing the impugned advertisement dated 4.3.06.

From the materials placed before this Court it would appear that the writ petitioner in the instant case has no required qualification of NET/SLET and therefore, her appointment was not approved by Respondent No.2 and as provided under Rule 19(IV) of the Rules, the impugned advertisement was published. In view of the facts and circumstances of the case, there is no wrong in issuing the advertisement dated 4.3.06. No interference in the impugned advertisement therefore is called for.

In view of the discussion made above, the writ petition has no merit and the same is dismissed accordingly. However, in the facts and circumstances of the case there shall be no order as to cost. Interim order passed earlier stands vacated.

The college authority is at liberty to complete the selection process and thereafter to fill up the post of Lecturer in the department of History of Dhemaji College.

Mr. Bora, learned Sr. counsel has submitted at this stage that the petitioner was serving in a consolidated pay of Rs.2,000/- in the college from 14.11.05 and she was terminated by the college authority on 4.6.06. But the petitioner has not received salary for the whole period she served in the college. In view of the submission so made by Mr. Bora, Respondent Nos. 3 and 4 are directed to examine the matter and if the petitioner has not been paid the consolidated pay of Rs.2,000/- for the period she served in the college, the same shall be paid within a period of eight weeks from today.