

JUDGMENT AND ORDER

(ORAL)

All these writ petitions, having raised common question for determination, are heard analogously and disposed of by this common judgment and order.

2. Before turning to the facts of each case, it is imperative to note that in pursuance of this High Court's judgment and order, dated 25-08-2003, passed in Civil Rule No. 571/1998 and 28 other similar cases, the Chief Secretary to the Government of Assam constituted a High Powered Committee for examination of all pending cases of dropped teachers by Government Notification, dated 19-09-2003, which was subsequently superseded and reconstituted by Notifications, dated 25-04-2004, 24-12-2004 and 08-12-2006.

1. W.P.(C) No. 2182/2008

Background facts:

3. It has been submitted, on behalf of the respondents, that the petitioner's case was rejected by the Committee on the ground that her name did not figure in the original detailed particulars of the school, in question, which were, in terms of the advertisement, dated November, 2004 and November, 2005, forwarded by the Headmaster of the school concerned and the Inspector of Schools.

4. Resisting the submission, made on behalf of the respondents, it has been contended, on behalf of the petitioner, that the petitioner duly appeared before the Screening Committee and produced the relevant documents. It needs to be pointed out, in this regard, that the school, in question, was provincialised on 19.11.1991 and the petitioner claims to have joined as Assistant Teacher on 17.07.1988. If the petitioner's assertion is correct, she had existed in the school, in question, on the date of its provincialisation and if it be so, she has to be treated as a dropped teacher.

2. W.P.(C) No. 3351/2008

Background facts:

5. The ground for rejection of the petitioner's case by the Committee, as has been submitted, on behalf of the respondents, is that the Committee did not find the original detailed particulars of the petitioner.

6. The submissions, made on behalf of the respondents, have been vehemently resisted, on behalf of the petitioner, by contending that the petitioner appeared before the Committee along with the Headmaster of the school and that all relevant documents were produced by the petitioner.

7. While considering the above findings of the Committee as well as the claim of the petitioner, it needs to be pointed out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 20.04.1994. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

3. W.P.(C) No. 2355/2008

Background facts:

8. The Committee rejected the petitioner's case on the ground that the petitioner's name did not figure in the original detailed particulars of the school, in question, which were, in terms of the advertisement, dated November, 2004 and November, 2005, forwarded by the Headmaster of the school concerned and the Inspector of Schools and that no certificate, in respect of the petitioner's B.Sc.

degree, was produced.

9. As against the above findings of the Committee, the petitioner claims that at the petitioner had appeared before the Committee along with the Headmaster of the school and all relevant documents were produced. It is also pertinent to point out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 19.06.1995. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

4. W.P.(C) No. 909/2008

Background facts:

10. The petitioner's case was rejected by the Committee on the ground that while two Affidavits had been filed, neither the petitioner's name appeared in the list, in the 1st Affidavit, nor had any reason been assigned for not showing the petitioner's name in the list. The 2nd Affidavit stated that the petitioner had not mentioned the date of application and no reference of the Court order was made by the petitioner.

11. The petitioner, however, contends that he duly appeared before the Committee, along with the Headmaster of the school, and produced all relevant documents. It, deserves to be pointed out, in this regard, that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 24.08.1991. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

5. W.P.(C) No. 950/2008

Background facts:

12. The petitioners' cases were rejected by the Committee on the ground that the original application and relevant records, in respect of petitioner No. 1, namely, Sri Deben Saikia, were not available with the Committee, and that the petitioner No. 2, namely, Sri Subhash Chandra Deori, did not appear at all before the Screening Committee.

13. While considering the above findings of the Committee, it needs to be pointed out that the petitioners, however, claim that they duly appeared before the Committee and that, at the time of their appearance before the Committee, records were available with the respondents.

14. Taking into consideration the claim and counter-claim of the parties, this Court is of the considered view that in the facts and circumstances of the present case, it would serve the interest of justice if the Committee is directed to call the petitioners for the purpose of screening the documents, which the petitioners may produce, so that an effective decision can be taken in the matter.

6. W.P.(C) No. 2354/2008

Background facts:

15. It is submitted, on behalf of the respondents, that the Screening Committee rejected the petitioner's case on the ground that the petitioner did not appear before the Screening Committee for verification of the petitioner's certificates etc.

16. The petitioner, however, contends that she appeared before the Committee along with the Headmaster of the school and produced all relevant documents.

17. While considering the contentions of the parties, it is also worth mentioning that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 09.03.1990. If the petitioner's assertion is correct, she had existed in the school, in question, on the date of its provincialisation and if it be so, she has to be treated as a dropped teacher.

7. W.P.(C) No. 3273/2008

Background facts:

18. The petitioner's case was rejected by the Committee on the ground that her name did not figure in the original detailed particulars of the school, in question, which were, in terms of the advertisement, dated November, 2004 and November, 2005, forwarded by the Headmaster of the school concerned and the Inspector of Schools.

19. While considering the above findings of the Committee, it needs to be pointed out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 30.12.1994. If the petitioner's assertion is correct, she had existed in the school, in question, on the date of its provincialisation and if it be so, she has to be treated as a dropped teacher.

8. W.P.(C) No. 3552/2008

21. The petitioners' cases were rejected by the Committee on the ground that the Screening Committee did not find the original detailed particulars of petitioner No. 1, namely, Sri Shama Charan Mushahari. Moreover, no Court order was enclosed. The Committee rejected the case of petitioner No. 2, namely, Smti. Madhuchanda Sengupta, on the ground that her name did not figure in original detailed particulars.

22. While considering the above findings of the Committee, it needs to be pointed out that the petitioners have contended, against the findings of the Committee, by saying that they had appeared before the Committee along with the Headmaster of the school and all relevant documents were produced. It may also be pointed out, in this regard, that the school, in question, was provincialised on 01.08.1995 and the petitioner No. 1 claims to have joined, as Assistant Teacher, on 23.12.1994, and the petitioner No. 2 claims to have joined, as Assistant Teacher, on 24.10.1994 respectively. If the petitioners' assertions are correct, they had existed in the school, in question, on the date of its provincialisation and if it be so, they have to be treated as a dropped teachers.

9. W.P.(C) No. 4102/2008

Background facts:

23. It has been submitted, on behalf of the respondents, that the Screening Committee could not consider the petitioner's case on the ground that the petitioner's detailed particulars were not available with the Committee.

24. While resisting the submissions, made on behalf of the respondents, it has been submitted, on behalf of the petitioner, that the petitioner appearing before the Committee along with the Headmaster of the school and all relevant documents were produced.

25. While considering the above findings of the Committee and also the claim of the petitioner, it needs to be pointed out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 24.12.1985. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

10. W.P.(C) No. 917/2008

Background facts:

26. The petitioner's case was rejected by the Committee on the ground that the petitioner did not appear before the Screening Committee, as was required. But, on the other hand, it has been submitted, on behalf of the petitioner, that the petitioner appeared before the Committee along with the Headmaster of the school and also produced all relevant documents.

27. While considering the contentions of the parties, it also needs to be pointed out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 24.02.1993. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

11. W.P.(C) No. 915/2008

Background facts:

28. It has been submitted, on behalf of the respondents, that the petitioner's case was rejected by the Committee on the ground that the petitioner did not appear before the Screening Committee.

29. Contrary to the findings of the Committee, the petitioner claims that he had appeared before the Committee along with the Headmaster of the school and all relevant documents were produced. However, it may also be pointed out, in this regard, that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 26.10.1993. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

12. W.P.(C) No. 1331/2008

Background facts:

30. The petitioner's case was rejected by the Committee on the ground that the petitioner did not furnish to the Committee his date of joining in the service, approval thereof and certificate pertaining to his education qualification.

31. While considering the above findings of the Committee, it needs to be pointed out that the petitioner, on the contrary, claims that he appeared before the Committee along with the Headmaster of the school and duly produced the relevant documents. It is also worth mentioning, in this regard, that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 09.01.1991. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

13. W.P.(C) No. 1112/2008

Background facts:

32. The petitioner's case could not be placed before the Screening Committee for consideration on the ground, that the petitioner did not mention, in his application, as to when he had applied for appointment. Moreover, the petitioner did not appear before the Screening Committee.

33. Resisting the contentions of the respondents, it has been submitted, on behalf of the petitioner, that the petitioner appeared before the said Committee, on 29.11.2005, and all the documents of the petitioners, regarding the petitioner's claim, were examined by the Committee.

34. While considering the above findings of the Committee as well as the claim of the petitioner, it needs to be pointed out that the school, in question, was provincialised on 01.08.1995 and the petitioner claims to have joined as Assistant Teacher on 28.04.1988. If the petitioner's assertion is correct, he had existed in the school, in question, on the date of its provincialisation and if it be so, he has to be treated as a dropped teacher.

14. W.P.(C) No. 1317/2008

Background facts:

35. The petitioners' cases were rejected by the Committee on the grounds that (1) the petitioner No. 1, namely, Indreswar Gogoi, was second Hindi teacher, (2) joining report doubtful, and (3) the detail particulars of the petitioner No. 2, namely, Tilak Chandra Lahan, were not available.

36. It has been submitted, on behalf of the petitioners, that they duly appeared before the Screening Committee, on 28.11.2005, and produced all relevant documents.

37. While considering the above findings of the Committee as well as the claims of the petitioner, it also needs to be pointed out that the school, in question, was provincialised on 20.03.1996, and the petitioner Nos. 1 and 2 claim to have joined as Assistant Teacher and second Hindi teacher, respectively, on 13.09.1994. If the petitioners' assertions are correct, they had existed in the school, in question, on the date of its provincialisation and if it be so, they have to be treated as a dropped teachers.

15. W.P.(C) No. 2029/2008

Background facts:

38. The petitioner's case was rejected by the Committee on the ground that (1) documents, pertaining to the petitioner's educational qualifications, were not available, (2) date of joining of the petitioner in service as well as the date of Managing Committee's resolution, approving the petitioner's appointment were not available, and (3) detailed particulars of the petitioner were not available.

39. While considering the above findings of the Committee, it needs to be pointed out that the school, in question, was provincialised on 26.03.1996 and the petitioner claims to have joined as Assistant Teacher on 01.12.1994. If the petitioner's assertion is correct, she had existed in the school, in question, on the date of its provincialisation and if it be so, she has to be treated as a dropped teacher.

pped teacher.

40. Having heard the learned counsel for the parties, at length, and in the light of the facts and attending circumstances of the cases, as discussed above, this Court is of the considered view that in order to resolve the controversy and in the interest of justice, it would be appropriate to direct the Committee aforementioned to re-examine the petitioners' case for the purpose of determining as to what benefits, if any, the petitioners can have in the fact situation of the present case.

41. In view of the above, the Chief Secretary to the Government of Assam, is hereby directed to constitute, in terms of the judgment and order, dated 25-08-2003, passed in Civil Rule No. 571/1998 and 28 other similar cases, a High Power Committee, which shall, upon causing service of notice on the petitioners, examine the petitioners' cases in the light of the relevant Government Policy and the law contained in that behalf.

42. While examining the cases of the petitioners, the Committee shall, amongst others, find out whether the petitioners' appointment, if any, stood, in terms of the relevant policy and law, approved by competent authority. Whether the student-teacher ratio of 40:01 required the sanction of the posts, which the petitioners claim to have been holding, and whether the petitioners had satisfied the necessary eligibility criteria at the time when the provincialisation of the respective school(s) took place. It is further directed that the whole exercise, directed hereinbefore, shall be completed within a period of six months from the date on which a copy of this order is received by the Chief Secretary to the Government of Assam.

43. It is further made clear that this order has been passed on account of the fact that the petitioners' claim, in some of the cases, is that they have requisite documents, in original, and it would be, in the considered view of this Court, highly unjust if the petitioners are denied an opportunity of producing their requisite documents, in original, before the Committee concerned, so that their cases can be effectively examined and disposed of.

44. Before parting with this writ petition, it is, however, made clear that these directions are given considering the peculiarity of facts and circumstances of these cases and shall, therefore, not be treated as precedent.

45. With the above observations and directions, all these writ petitions shall stand disposed of.