

BEFORE

THE HON'BLE MR JUSTICE T VAIPHEI

The grievance of the petitioner in this writ petition is directed against the in action of the respondent authorities to appoint him as the Headmaster of Kampur Adarsha High School, Nagaon District on regular basis in terms of the select list dated 7.7.2011 prepared by the Selection Committee. The material facts of the case are not in dispute. In terms of the advertisement dated 2.11.2010, the petitioner applied for the post of Headmaster/Headmistress/Superintendent of High Schools/High Madrassa under the provisions of Assam Secondary Education (Provincialised) Services Rules 2003. As already noted, his name found at place at serial No. 2 of the select list after one Nipendra Debnath, who was then the functioning In-charge headmaster of the School. Naturally, the said Nipendra Debnath was appointed as Headmaster on regular basis on the basis of the select list dated 7.7.2011. However, this gentleman retired from service on 31.7.2012 on attaining the age of superannuation. Just after his retirement, the petitioner was allowed to hold the post of Headmaster on in-charge basis. He expected that following the retirement of the said Nipendra Debnath, he would eventually be appointed as the Headmaster on regular basis on the basis of select list dated 7.7.2011. No such appointment was forthcoming whereupon he approached this Court by way of this writ petition.

The contention of Mr. M. Phukan, the learned counsel for the petitioner is that once the select list dated 7.7.2011 has not expired as he was given No. 2 position in the select list, he has the legitimate expectation that he would be appointed as Headmaster on regular basis. The contention of the learned counsel for the petitioner is strongly refuted by Mr. J. Abedin, learned Standing counsel, Education Department by contending that the select list itself got exhausted after appointing the said Nipendra Debnath who having stood first in the select list was appointed as Headmaster of the school as this is a one post and school-wise appointment.

After giving my anxious consideration to the submissions advanced by the learned counsel appearing for the rival parties, I find force in the contention of the learned Standing counsel appearing for the Education Department. One the said Sri Nipendra Debnath was appointed as Headmaster on regular basis in terms of the select list dated 7.7.2011, the select list spent its force and the same cannot be taken advantage of by the petitioner after the retirement of the former. This is so, the appointment being school-wise and having only one post, the select list cannot be allowed to operate like a running account to be used for filling up the other selectees like the petitioner. Even assuming that there is no validity period for the select list also, the service jurisprudence is that the select list has a validity period of one year. In such situation also, after the retirement of the incumbent on 31.7.2012, the select list which was approved on 7.7.2011 had already expired.

In that view of the matter, the petitioner has no case for the interference of this Court. Nevertheless, the representation filed by the petitioner on 3.8.2012 to the respondent No.2 has apparently has unattended. The respondent No. 2 may examine the representation and dispose of the same in accordance with the law within a period of 30 days from the date of receipt of this order.

This writ petition is dismissed subject to the observation made herein above.