

None appears for the petitioner, when the matter is called upon. Heard Mr. T. Sk, learned counsel for the respondent No.5 as well as Mr. A. Dekka, learned standing counsel for the Education Department.

2. It is the case of the petitioner that the petitioner was appointed as a Grade-IV employee on a temporary basis by the Managing Committee of the Phulbari Public High School under Cachar district as per Resolution No.2 dated 14.03.1993 of the Managing Committee which was passed at the pre-provincialised stage of the school. It is stated that subsequently, the school was provincialised in the year 1994.

3. It is the case of the petitioner that although he was serving as a Grade-IV employee in the school prior to its provincialisation, but inexplicably his service was not provincialised at the time of provincialisation. In other words, the petitioner seeks to make out his case of provincialisation was dropped at the time of provincialisation.

4. It is the case of the petitioner that being so aggrieved on being dropped, he had preferred a writ petition earlier which was registered as C.R. No. 3447/1996. According to the direction of this Court by the order dated 11.07.1997 in the said petition, the Govt. of Assam was pleased to allow adjustment of the petitioner along with ten other teaching and non-teaching staff of the Phulbari Public High School. As per the order dated 26.11.1998, the Deputy Secretary to the Govt. of Assam directed the Director of Secondary Education, Assam to allow adjustment of the said eleven persons including the petitioner.

5. It is the case of the petitioner that ten persons out of the eleven persons had been adjusted, but the service of the petitioner was not adjusted, as there was no vacant post for Grade-IV employee at the relevant point of time. Accordingly, in this writ petition, the petitioner is aggrieved by the advertisement dated 13.10.2012 of the Headmaster of Phulbari Public High School which advertised for one post of Grade-IV employee.

6. Accordingly, the petitioner seeks for a direction that the petitioner be provincialised/appointed against the said post which was advertised and the advertisement be set aside. The respondent authorities on the other hand, had filed an affidavit-in-opposition through the Director of Secondary, Assam. In paragraph-5 of the said writ petition, it has been stated that the Headmaster of the school had informed that the writ petitioner was not seen in the school premises since the year 2001 and the said information was made on the basis of the attendance register of the school since 2001. Accordingly, the Director by letter dated 12.09.2012 directed the Headmaster to make an advertisement for the vacant post of Grade-IV. The Headmaster of the school had also filed affidavit-in-opposition dated 09.01.2014, wherein, in paragraph-8 it had been stated that no record is available in the school office regarding the service record of the petitioner. Accordingly, the averment that the petitioner is rendering service was denied.

7. The petitioner on the other hand filed affidavit-in-reply against the affidavit-in-opposition filed by the respondent, wherein, a stand has been taken by the petitioner that he was prevented by the Headmaster to put his signature in the attendance register of the school and in spite of the local people raising an objection, the Headmaster had not agreed to allow the petitioner to put his signature.

8. In view of the aforesaid stand taken by the writ petitioner that he was prevented by the Headmaster from putting his signature in the school attendance register and it being the stand of the Director on the basis of the report submitted by the Headmaster that the petitioner was not seen in the school after 2001, this Court deems it appropriate that the aforesaid factual dispute be resolved by the Director of Secondary Education by conducting a proceeding, wherein, the petitioner shall be given a personal hearing and be allowed to produce all the relevant materials and facts, that he may desire to produce.

Upon considering the materials and facts that the petitioner may produce, the Director would cause an enquiry and pass a speaking order on the question as to whether the petitioner was actually prevented by the Headmaster from discharging his duties in the school or the petitioner on his own volition had left the service.

9. It is stated that pursuant to the impugned advertisement, the required procedure had already been initiated by the respondent authorities but the same had not been brought to its logical end in view of the interim order passed in this writ petition. Accordingly, it is provided that the Director upon giving an opportunity of hearing, would pass a reasoned speaking order on the claim of the petitioner that he had been working in the school and depending upon the order to be passed by the Director, further course of action shall be taken for bringing the process of selection under the advertisement to its logical end. In the event, the Director passes the order in favour of the petitioner, the Director would pass appropriate order and in such event, the advertisement would not be processed further. But on the other hand, if the order passed by the Director is against the petitioner by arriving at a finding that he has not been served in the school since 2010, the respondent authorities may proceed with the advertisement and bring the same to its logical end.

10. The aforesaid exercise shall be completed within a period of 3 (three) months from the date of receipt of a certified copy of this order. As the learned counsel for the petitioner is not present today, Mr. T. Sk, learned counsel for the respondent No.5 as well as Mr. A. Deka, learned standing counsel, Education Department shall inform the learned counsel for the petitioner as regards the order passed today.

Writ petition stands disposed of.

Interim order passed earlier stands vacated.