

GAHC010134542020



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C) 3902/2020**

1:HEMLATA DWIVEDI  
W/O ABHISHEK KUMAR PANDEY,  
RESIDENT OF 280/81 STATION ROAD, NEAR VARANASI BUS STAND,  
SAGMOHAL, AGHAULI, MIRZAPUR, UTTAR PRADESH, 8231001

VERSUS

1:THE STATE OF ASSAM AND 4 ORS.  
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,  
HEALTH AND FAMILY WELFARE DEPARTMENT , DISPUR GUWAHATI

2:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE (B) DEPARTMENT  
DISPUR GUWAHATI 6

3:THE DIRECTOR OF MEDICAL EDUCATION ASSAM  
SIX MILE  
KHANAPARA  
GUWAHATI 7

4:THE MEDICAL AND HEALTH RECRUITMENT BOARD ASSAM  
SAIKIA COMMERCIAL COMPLEX  
CHRISTIAN BASTI  
GUWAHATI 781005  
ASSAM REPRESENTED BY ITS CHAIRMAN

5:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM PERSONNEL (B) DEPARTMENT  
DISPUR GUWAHATI

**Advocate for the Petitioner** : MR. P N GOSWAMI

**Advocate for the Respondent** : SC, HEALTH

BEFORE

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**30-09-2020**

Heard Mr. P. N. Goswami, learned counsel for the petitioner and Mr. D. Saikia, learned Senior Standing counsel, Government of Assam assisted by Mr. B. Gogoi, learned counsel for the all the respondent Nos. 1 to 5.

The petitioner herein is serving as a Reader in the Government Dental College, Dibrugarh, Assam on contractual basis in terms of the Office Order dated 03.04.2018 under No.DME/274/2016/Pt.5170 issued by the Director of Medical Education, Assam. Though, petitioner's service was initially for a period of 6 (six) months, but the same has been extended from time to time.

Earlier on 26.12.2019 advertisement was issued for filling up 10 numbers of posts of Reader in Government Dental Colleges under Health and Family Welfare Department of the State. But as the petitioner crossed her upper age for consideration of her appointment in such public posts in the State of Assam, she approached this Court for a direction to the respondents in the Health and Family Welfare Department to relax her upper age enabling her to apply for the relevant post as advertised on 26.12.2019 by filing WP(C) No. 987/2020. However, the said writ petition of the petitioner was rejected by this Court vide order dated 14.02.2020, as the petitioner did not file any representation before the authority concerned regarding condonation of her over age.

In this writ petition, the petitioner has stated that on 19.09.2020, the Medical and Health Recruitment Board (MHRB), Assam has issued a fresh advertisement for 44 numbers of posts of Lecturers in Government Dental Colleges under the Health and Family Welfare (B) Department including the post of Lecturer in Prosthodontics, Crown & Bridge, Aesthetic Dentistry and Oral Implantology wherein at Clause 6 it has been specified that preference

shall be given to the Doctors working under Regulation 3 (f) of APSC or 17B of MHRB if any or on contractual basis in Dental Colleges of Assam. In the said advertisement dated 19.09.2020 at Clause 4 it has also been specified that the candidate shall not be more than 38 years of age as on 01.01.2020 for the general candidate.

Petitioner has already crossed the upper age of 38 years.

She has already submitted a representation on 22.09.2020 before the respondent No.1, Principal Secretary to the Government of Assam in the Health and Family Welfare Department so as to enable her to apply for the post of Lecturer as advertised on 19.09.2020 which is still pending for disposal.

Hence this writ petition by the petitioner praying amongst others to relax the impugned Clause 4 of the said advertisement dated 19.09.2020 of fixing the upper age limit of 38 years for unreserved candidates as on 01.01.2020 so that she can participate in the selection process.

The petitioner also submitted that as per the said advertisement dated 19.09.2020, the last date for submission of online application in the given website of the respondent Health Department is 05.10.2020.

After hearing the learned counsels for the parties, considering the entire aspect of the matter and without entering into the merit of the case, this writ petition is disposed of at the motion stage itself, directing the respondent No.1, Principal Secretary to the Government of Assam in the Health and Family Welfare Department to dispose of the representation of the petitioner dated 22.09.2020 on or before **03.10.2020** intimating the petitioner about the outcome of her representation considering the fact that 05.10.2020 is the last date for filing such application in terms of the advertisement dated 19.09.2020.

The petitioner shall submit a certified copy of this order along with a copy of her representation including a copy of this writ petition and the annexures appended thereto before the respondent No. 1, Principal Secretary to the Government of Assam in the Health and Family Welfare Department by tomorrow (01.10.2020) providing her Telephone No./Mobile No. and E-mail address so as to communicate the decision of the respondent No.1 on her said representation.

With the above observation and direction, this writ petition stands disposed of.

A true copy of this order shall be furnished by the concerned Court Master to the petitioner or to her authorized person for her necessary use.

**JUDGE**

**Comparing Assistant**