

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 3338/2018
(ARISING FROM SLP (C) NO. 30641/2017)

GAGAN CH. KALITA

APPELLANT (S)

VERSUS

THE STATE OF ASSAM & ORS.

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The appellant is before this Court, aggrieved by the denial of appointment as PGT Economics. The High Court declined to grant him relief on the ground that the appellant could not show that nobody with lesser marks had been appointed.

3. When the matter came up before this Court on 06.03.2018, the following order was passed:-

"Learned counsel for the petitioner submits that the teachers selected in the subject of Economics have never come to join Dhuhibala Madrassa H.S. School, Dhuh,

Kamrup (R) Assam, to teach the subject of Economics and that the petitioner has been teaching the subject Economics on honorarium basis for the last around sixteen years.

We direct the learned counsel appearing for the State to ascertain, within three weeks, as to whether there is a vacancy available in the subject of Economics in the School.

List on 27.03.2018."

4. Learned counsel appearing for the State, on instruction, submits that as a matter of fact there is one vacancy in the post of PGT Economics. It is further submitted that the candidates who were appointed to the post actually did not join duty and that is why the vacancy has arisen.

5. If the candidates who were above in merit to the appellant had not joined duty, naturally it was the appellant who should have been considered for the appointment.

6. Learned counsel for the State submits that the continuance of the appellant as a teacher on honorarium basis is in violation of the Government instructions issued in the year 2006. But the fact remains that the appellant has been continuing as a

teacher in the subject of Economics.

7. Having regard to the entire facts and circumstances of the case, we are of the view that in the interest of justice and for doing complete justice the appellant be appointed as a regular teacher-PGT Economics. This shall be done forthwith. The appointment for all purposes shall take effect from 02.04.2018. As far as past service of sixteen years is concerned, we direct the respondent(s) to consider whether any service benefit can be granted in view of the continuous service of the appellant.

8. We make it clear that this order is passed only in the peculiar facts of this case and the same may not be treated as a precedent.

9. The appeal is, accordingly, disposed of.

10. Pending applications, if any, shall stand disposed of.

11. There shall be no orders as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[MOHAN M. SHANTANAGAUDAR]

.....J.
[NAVIN SINHA]

NEW DELHI;
MARCH 27, 2018.