

GAHC010009472012



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

Case No. : WP(C)/5247/2012

DIBYAJYOTI KONCH
S/O- SHRI RABI CHANDRA KONCH, VILL.- JIAMORIA GAON, P.S.-
DHAKUAKHANA, DIST.- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPTT. ROADS.

2:THE UNDER SECY. TO THE GOVT. OF ASSAM
P.W.D. ESTT. B BRANCH.

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPTT. ROADS
ASSAM
CHANDMARI
GHY- 3.

4:THE EXECUTIVE ENGINEER
P.W.D.
LAKHIMPUR STATE ROAD DIVISION
GHILAMORA
LAKHIMPUR.

5:HEM CHANDRA HANDIQUE
S/O- SRI AKON CHANDRA HANDIQUE
R/O VILL.- GHOTAPARA
DIST.- LAKHIMPUR
ASSAM.

6:JATIN CHANGMAI

S/O- LT. HENDURA CHANGMAI
R/O VILL.- CHOWKHAM GHAT
P.O.- GHILAMARA
DIST.- LAKHIMPUR
ASSAM

Advocate for the Petitioner : MR.P KATAKI

Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 23/11/2023

Heard Ms. N. Gupta, learned counsel for the writ petitioner. Also heard Mr. R. Dhar, learned Standing Counsel, PWD, Assam, appearing for the respondent nos. 1 to 4. None has appeared for the respondent nos. 5 & 6.

The writ petitioner herein, was appointed as a Master Roll worker in the office of the Executive Engineer, PWD, Lakhimpur on 01/10/1990. After serving for several years in the Grade-IV post, the petitioner claims to have become eligible for promotion to the post of Lower Division Assistant (LDA), which is a Grade-III post. Notwithstanding the same, the respondents have not considered his case for promotion. On the contrary, the private respondent nos. 5 & 6, who were junior to the petitioner had been promoted to the post of LDA. Hence, this writ petition.

Mr. Dhar, learned departmental counsel has invited the attention of this Court to the counter affidavit filed by the respondent no. 3 in this case to submit that the respondent nos. 5 & 6 were placed higher in the gradation list of the Master Roll Workers after regularization of their service. As such, the claim of the writ petitioner that they were junior to him is wholly unfounded.

In so far as the other ground for denying promotion to the petitioner is concerned, Mr. Dhar submits that the minimum qualification for holding a Grade-III post is graduation. However, the petitioner is not a graduate and, therefore, he cannot be promoted to the post

of LDA after the amendment of the Rules which, according to Mr. Dhar, took place in the year 2013. The learned departmental counsel could not, however, address the Court on the point as to whether, the petitioner was eligible for being considered for promotion prior to the amendment of the Rules and if so, whether the amended qualification norms would at all be applicable to him if there were vacancies available at that point of time in the Grade-III category. This aspect of the matter, in the opinion of this Court, calls for proper consideration by the authorities.

Situated thus, this Court is of the view that the claim of the petitioner calls for a fresh consideration in the light of the observations made herein above.

In view of the above, this writ petition stands disposed of by providing that the petitioner may submit a fresh representation ventilating his grievance before the respondent authorities, by furnishing all necessary particulars.

If such representation is submitted by the petitioner within 6 (six) weeks from today by enclosing a certified copy of this order, the same be considered on merit and disposed of by a reasoned order within a reasonable time frame.

Writ petition stands disposed of, accordingly.

JUDGE

sukhamay

Comparing Assistant