

GAHC010022502023



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

Case : I.A.(Civil)/308/2023

BIDUR BORGAYARI
S/O LATE MANIK CHANDRA BORGAYARI
R/O BIPUNIDHI NIWAS
ALOKPUR PATH
BORBARI
VIP ROAD
GUWAHATI-781036

VERSUS

BIKASH CH. PANGGING AND 27 ORS
S/O NOMAL CH PANGGING
EXECUTIVE ENGINEER
PWD
DIBRUGARH LAHOWAL MORAN AND TINGKHONG TERRITORIAL ROAD
DIVISION
DIBRUGARH

2:THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM

DISPUR

GUWAHATI-781006 (ASSAM)

3:THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVERNMENT
OF ASSAM

PUBLIC WORKS ROADS DEPARTMENT

DISPUR

GUWAHATI-781006 (ASSAM)

4:THE SECRETARY

PUBLIC WORKS DEPARTMENT

GOVERNMENT OF ASSAM

DISPUR

GUWAHATI-781006

5:THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT OF
ASSAM

PUBLIC WORKS (BUILDING AND NH) DEPTT.

DISPUR

GUWHAATI-781006

6:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM

PUBLIC WORKS ROADS DEPTT.

DISPUR

GUWAHATI-781006

7:THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT FOR THE WELFARE OF PLAIN TRIBES AND BACKWARD
CLASSES (WPT AND BC)

DISPUR

GUWAHATI-781006 (ASSAM)

8:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

PERSONNEL (B) DEPTT

DISPUR

GUWHAATI-781006

9:THE CHAIRPERSON AND MEMBERS OF THE DPC MEETING
HELD ON 28.9.2021 FOR PROMOTION TO THE RANK OF SUPERINTENDING
ENGINEER UNDER THE PUBLIC WORKS DEPARTMENT

GOVT. OF ASSAM

TO BE SERVED UPON THE COMMISSIONER AND SPECIAL SECRETARY TO
THE GOVERNMENT OF ASSAM

PUBLIC WORKS (ROADS

BUILDING AND NH) DEPARTMENT

DISPUR

GUWAHATI-781006

10:SANTOSH KUMAR ROY

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

11:WAZID HUSSAIN

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

12:NIRUPAM BORTHAKUR

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

13:SAIFUL ISLAM

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

14:SANJIB KR. BHATTACHARJEE

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

15:BIKASH SINGHA

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

16:DILIP KR DAS

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED

THROUGH NO. 4 ABOVE

17:MISS MADHUMITA DEY

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

18:SMTI MITALI CHOUDHURY

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

19:AKLASUR RAHMAN BORBHUYAN

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

20:PRATIM BARUA

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

21:ANAND PRASAD SARMA

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

22:JOGENDRA DAS

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

23:MD. NURUL ISLAM

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

24:DWIJEN PATGIRI

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

25:RATHINDRA BIJOY CHAKRABORTY

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

26:ANUPAM KHARGHARIA

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

27:KALYAN KR SARMA

UNDER THE PUBLIC WORKS ROADS DEPARTMENT AND MAY BE SERVED
THROUGH NO. 4 ABOVE

28:JAGAMOHAN BASUMATARY

S/O LT. RUPENDRA BASUMATARY

EXECUTIVE ENGINEER

SOUTH SALMARA DISTRICT TERRITORIAL ROAD DIVISION

MANKACHAR

DIST- SOUH SALMARA

ASSAM- 783131.

Advocate for : MR. K N CHOUDHURY

Advocate for : MR D K DAS appearing for BIKASH CH. PANGGING AND 27 ORS

BEFORE

HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 08-02-2023

Heard Mr. K.N. Choudhury, learned Sr. counsel assisted by Mr. R.M. Deka, learned counsel for the applicant. Also heard Mr. D. Mazumder, learned Addl. Advocate General, Assam appearing for the official respondents and Mr. D.K. Das, learned counsel for the opposite party/ writ petitioner.

This I.A. has been filed by the applicant Sri Bidur Borgayari, who is newly impleaded as respondent No. 28 in the connected writ petition, seeking modification of the interim order dated 03-03-2022 passed by the learned Single Judge in W.P.(C) No. 1567/2022.

The case of the applicant is that he is eligible to be promoted to the rank of Superintending Engineer in the PWD, Assam and the DPC has also recommended his name for promotion. Notwithstanding the same, due to the operation of the interim order dated 03-03-2022, no order of promotion has been issued in his favour. Contending that the applicant is senior to the writ petitioner and deserves promotion, Mr. Choudhury, learned Sr. counsel for the applicant submits unless the interim order is modified, the interest of his client would suffer serious prejudice.

By referring to the order dated 18-01-2023 passed in I.A.(C) No. 3732/2022 arising out of W.P.(C) No. 1567/2022, Mr. Choudhury submits that similar application, made a the similarly situated candidate, i.e. the respondent No. 27 in the writ petition has already been granted by this Court and therefore, there is no valid ground to decline the relief as

prayed for in this I.A., by the applicant.

Mr. D. Mazumder, learned Addl. Advocate General, Assam and Mr. D.K. Das, learned counsel appearing for the opposite party No. 1/ writ petitioner have submitted in their usual fairness that they would have no objection, if the prayer is allowed.

In view of the above, it is hereby provided that pendency of the writ petition being W.P.(C) No. 1567/2022 shall not be a bar for the respondent authorities to consider the case of the applicant/ respondent No. 28 and issue order of promotion to the rank of Superintending Engineer as per recommendation of DPC, if so advised.

Interim order dated 03-03-2022 passed in W.P.(C) No. 1567/2022 stands modified to the above extent.

I.A. stands disposed of.

JUDGE

GS

Comparing Assistant