

GAHC010051742018



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

Case No. : WP(C)/1628/2018

SAHADAT AHMED CHOUDHURY
S/O- LATE JOYNAL UDDIN CHOUDHURY, R/O- CENTRAL DAIRY CAMPUS,
KHANAPARA, GHY- 22

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPTT, ASSAM, DISPUR, GHY-
781006

2:THE DIRECTOR
DAIRY DEVELOPMENT
ASSAM
KHANAPARA
GHY- 22

3:THE SUPERINTENDENT
TOWN MILK SUPPLY SCHEME
KHANAPARA
GUWAHATI- 22

4:HARESWAR SAIKIA
JUNIOR ASSISTANT
OFFICE OF THE DAIRY DEVELOPMENT OFFICER
BIRAH
BEBEJIA
NAGAON
ASSAM
PIN- 782142

5:NAGEN CH. TALUKDAR

JUNIOR ASSISTANT
OFFICE OF THE DEPUTY DIRECTOR
DAIRY DEVELOPMENT ZONE
NALBARI
SARIAHTOLI
NALBARI
ASSAM
PIN- 78133

Advocate for the Petitioner : MR. N H BARBHUIYA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 17/05/2023

Heard Mr. N. H. Barbhuiya, learned counsel for the writ petitioner. Also heard Ms. M.M. Kataki, learned Standing Counsel, Dairy Development Department, Assam, appearing for the respondent no. 2 and Mr. S.N. Krishnatraya, learned counsel for the respondent nos. 4 & 5. Mr. J.K. Goswami, learned Additional Senior Government Advocate, Assam, has appeared on behalf of the respondent nos. 1 and 3.

It appears from the petition that the writ petitioner herein was appointed as a Grade-IV (Boiler Khalasi) employee under the Assistant Dairy Development Officer, Town Milk Supply Scheme, Jorhat on 13/12/1994 and thereafter, by order dated 02/05/2004, he was transferred and posted under the Superintendent, Town Milk Supply Scheme (TMSS), Khanapara, Guwahati.

The grievance of the petitioner is that although he has been discharging his duties in utmost sincerity and devotion since past several decades, his case has not been considered for promotion to any Grade-III post till today.

Mr. Barbhuiya, learned counsel for the writ petitioner submits that although the petitioner had

initially assailed the promotion given to the respondent nos. 4 & 5 to Grade-III, yet, at this point of time, the petitioner's only prayer is to consider his case for promotion to a Grade-III post, in accordance with the Rules. In other words, the petitioner is not assailing the promotion given to the respondent nos. 4 and 5 in this writ petition.

Ms. Kataki, learned counsel for the respondent no. 2 submits that the petitioner's case will be considered for promotion, in accordance with the Rules, if he meets the eligibility conditions. Similar is the stand of Mr. J.K. Goswami, learned Additional Senior Government Advocate, Assam, appearing for the State.

Since the petitioner has given up his challenge to the promotion given to the respondent nos. 4 and 5, it will not be necessary for this Court to go into the said aspect of the matter.

Having regard to the submissions made at the Bar and as agreed to by the learned counsel for the parties, this writ petition stands disposed of by providing that the respondents may consider the case of the writ petitioner for promotion to Grade-III post along with other eligible candidates, in accordance with the Rules, if the petitioner comes within the zone of consideration. Since right to be considered for promotion has been recognized as a fundamental right, it is provided that if vacancies in Grade-III position is available, the respondents will initiate appropriate step in the matter, in accordance with the Rules without further delay.

JUDGE

sukhamay

Comparing Assistant