

GAHC010063242018



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

Case No. : WP(C)/2027/2018

BIREN BARMAN
A.AI, ADO CIRCLE,
SATGAON, OFFICE OF THE D.A.O. KAMRUP, GUWAHATI -21.
MOBILE NO. 9678071082

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
AGRICULTURE TO THE GOVT. OF ASSAM,
AGRICULTURE DEPARTMENT, DISPUR, GUWAHATI -6.

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM

AGRICULTURE DEPARTMENT

DISPUR
GUWAHATI -06.

3:THE DIRECTOR OF AGRICULTURE

ASSAM
KHANAPARA
GUWAHATI -22

Advocate for the Petitioner : MS U DAS

Advocate for the Respondent : GA, ASSAM

BEFORE

HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**ORDER****25.08.2023**

Heard Dr. G.J. Sharma, learned counsel for the petitioner. Also heard Ms. G. Borah, learned Standing Counsel, Agriculture Department for the respondents.

2. This writ petition has been filed by the petitioner claiming promotion to the next higher grade of Agricultural Inspector and its equivalent post. The petitioner was working as Assistant Agricultural Inspector. By communication dated 01.06.2017, the Joint Secretary to the Government of Assam, Agriculture Department conveyed the approval for filling up 110 vacant posts of SAS-I (AI, which is Agriculture Inspector and its equivalent post). These posts were to be filled up by way of promotion from the cadre of SAS-II which is Assistant Agricultural Inspector and its equivalent post.

3. The learned counsel for the petitioner referred to the Service Rules, namely the Assam Subordinate Agricultural Service Rules, 1994 submits that as per Rule 11, all vacancies in Class-I and Class-II cadre are to be filled by promotion as per the Service Rules. Under Rule 11 (b), it is provided that the Assistant Agricultural Inspector and equivalent post, promotions shall be made to Agricultural Inspector and equivalent posts in Class-I. Assistant Agricultural Inspector is Class-II post and Agricultural Inspector is Class-I post. The learned counsel for the petitioner has also referred to the final Gradation List of the SAS-II cadre Officials of Subordinate Agricultural Service as on 31.01.2018 including Karbi Anglong Autonomous Council and Dima Hasao where the seniority position of the petitioner was at 58. The learned counsel for the petitioner submits that in view of the sanction received by the Department for filling up of 110 post in Class-I cadre and in view of the position of the petitioner at the seniority list, he

was within the zone of consideration and therefore, his case ought to have been considered. However, the same was not considered by the Department and the petitioner came to be superannuated on 31.03.2018. Under such circumstances, the petitioner being aggrieved has preferred a representation dated 09.03.2018 ventilating his grievances before the Competent Authority, who is the Director, Agriculture Department. However, the said representation was also not disposed of. Finding no alternative, the petitioner has approached this Court by filing the present writ petition.

4. Ms. G. Bora, learned counsel for the Agriculture Department prays for some time to complete her instructions and file affidavit if so advised as it is submitted she has been recently engaged by the Department.

5. The learned counsel for the petitioner submits that the writ petition may be disposed of with a direction to the Director, Agriculture Department to consider his prayer ventilated through the representation dated 09.03.2018 which had remained pending and pass appropriate orders thereon. It is submitted that since the petitioner had superannuated in the meantime, had the Department proceeded with the promotion at the relevant point in time and the petitioner's case could have been considered at the relevant point in time. But that having not been done, the benefits which had accrued to him should be released by the Department. The learned counsel prays for a direction to the respondent department to consider and dispose of the representation preferred by the petitioner.

6. Ms. Borah, the learned counsel for the Department does not oppose the submissions made by the learned counsel for the petitioner.

7. Having heard the learned counsel for the petitioner and upon due perusal

of the writ petition, this Court is of the view that since Department has not filed their affidavit and the learned counsel has also prayed for some time to complete her instructions, ends of justice will be served if the writ petition is closed with a direction to the Director, Agriculture Department to dispose of the representation dated 09.03.2018, stated to have been filed by the petitioner, and on which as submitted, no order has been passed. If that be so then, the Director while disposing of the representation will take into account the grievances of the petitioner for non-consideration of his case for promotion to the next higher grade of Agricultural Inspector in terms of the Service Rules and in view of the sanction granted by the Government communicated by the Joint Secretary to the Agriculture Department vide communication dated 01.06.2017. If the grievances raised by the petitioner are found to be correct then appropriate orders thereon should be passed by the Director. If the members of the service of Assistant Agricultural Inspector for Grade-II are promoted to Grade-I and the petitioner's case has been overlooked then the Department will consider his claim and confer benefits accrued to him as available under the law. The Director will dispose of the representation within a period of 60 days from the date of receipt of certified copy of this order. Copy of any order passed by the Director, as directed above, shall be served upon the petitioner.

8. With the above observation, the writ petition stands closed.

JUDGE

Comparing Assistant