

GAHC010074022022



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

Case No. : WP(C)/2815/2022

RAHUL DEV BRAMHA
S/O LT. BINESWAR BRAHMA, VILL- THULUNGAPURI, P.O. AND DIST-
KOKRAJHAR, BTAD, ASSAM, PIN-783370

VERSUS

THE GAUHATI HIGH COURT AND 6 ORS
(THE HIGH COURT OF ASSAM, MIZORAM, NAGALAND AND ARUNACHAL
PRADESH), REPRESENTED BY THE REGISTRAR GENERAL, GAUHATI HIGH
COURT, GUWAHATI, PIN-781001

2:THE REGISTRAR (ADMINISTRATION)
GAUHATI HIGH COURT
GUWAHATI-781001

3:THE CHIEF JUDICIAL MAGISTRATE
KOKRAJHAR
ASSAM
PIN-783370

4:THE CHAIRMAN
SELECTION BOARD OF ESTABLISHMENT OF CHIEF JUDICIAL
MAGISTRATE
KOKRAJHAR
P.O.-KOKRAJHAR
PIN-783370
ASSAM

5:SAMAR SAHA
L.D. ASSISTANT
O/O THE CHIEF JUDICIAL MAGISTRATE
CHIEF JUDICIAL MAGISTRATE COMPLEX

COURT PARA
KOKRAJHAR
BTAD
ASSAM
PIN-783370

6:JOY KUMAR GHOSH
COPYIST
O/O THE CHIEF JUDICIAL MAGISTRATE
CHIEF JUDICIAL MAGISTRATE COMPLEX
COURT PARA
KOKRAJHAR
BTAD
ASSAM
PIN-783370

7:BIDYUT SARKAR
L.D. ASSISTANT
O/O THE CHIEF JUDICIAL MAGISTRATE
CHIEF JUDICIAL MAGISTRATE COMPLEX
COURT PARA
KOKRAJHAR
BTAD
ASSAM
PIN-78337

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent : SC, GHC

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

13.12.2023

1. Heard Mr. P. K. Das, learned counsel for the petitioner. Also heard Mr. H. K. Das, learned Standing Counsel for the Gauhati High Court representing the respondent Nos. 1, 2, 3 and 4.
2. The present writ petition is filed assailing the promotion granted to respondent Nos. 5, 6 and 7 from the post of Grade-IV to Grade-III by the respondent No. 4.
3. It is the case of the petitioner that the petitioner was appointed as a Peon under the establishment of the Chief Judicial Magistrate, Kokrajhar in the year 1999 and he was senior to the respondent No. 5.
4. It is the further case of the petitioner that such promotion has been made by ignoring his seniority.
5. It is the case of the respondents that due procedure of promotion was followed and the respondent Nos. 6 and 7 who were promoted to the posts were senior to the petitioner as well as in a written examination held, the aforesaid respondents obtained more marks than the petitioner and the present petitioner even failed to obtain the qualifying marks. It is the further case of the respondents that the respondent Nos. 6 and 7 are senior to the petitioner. Though the respondent No. 5 is junior to the present petitioner, however, the said respondent obtained more marks in the

qualifying examination and the petitioner even failed to obtain the minimum marks.

6. Heard the learned counsel for the parties. Perused the materials available on record.
7. It is undisputed that the Chief Judicial Magistrate, Kokrajhar issued a notice on 30.09.2021 informing all the Grade-IV employees serving in the establishment, who had applied for promotion from Grade-IV (Process Serve/Peon) to Grade-III (LDA/Copyist) that an examination would be held on 07.10.2021. The said notice prescribed 15 marks against ACR (for the year 2018, 2019 & 2020), 10 marks against written test, 15 marks against computer literacy test and 10 marks against Viva-voce.
8. The petitioner along with the respondent Nos. 5, 6 and 7 and some others appeared in the written examination held on 07.10.2021 and thereafter, Viva-Voce test was held on 23.11.2021.
9. Subsequently, the Selection Board decided to fix 50% of the total of 50 marks as minimum eligibility criteria for promotion from Grade-IV to Grade-III and accordingly, finalized the select list.
10. In terms of the select list, the respondent No. 6 scored 46.75 marks, respondent No. 7 scored 33.75 marks, the respondent No. 5 scored 25.15 marks and the petitioner scored 23.60 marks.
11. In view of the aforesaid disputed facts, in the considered opinion of this Court, the impugned order dated 28.12.2021 granting promotion to the respondent Nos. 5, 6 and 7 cannot be interfered with, for the reason that

there is neither any allegation of any lapse or illegality in conducting the selection process nor this Court has found any. The petitioner participated in the selection process and even failed to obtain the qualifying marks. Therefore, the petitioner cannot claim promotion on the basis of seniority after participating in the selection process.

12. Accordingly, the present writ petition stands dismissed. However, parties to bear their own cost.

JUDGE

Comparing Assistant