

GAHC010081962018



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

Case No. : WP(C)/2577/2018

FAZLE RABBI
SON OF LATE MOMIN UDDIN AHMED
INVESTIGATOR(STATISTICS)
OFFICE OF THE DIRECTOR OF FISHERIES, GOVERNMENT OF ASSAM,
MEEN BHAWAN, POST OFFICE- GOPINATH NAGAR, POLICE STATION-
BIRUBARI, DISTRICT- KAMRUP(METRO), ASSAM. PIN- 781016

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, POST OFFICE- ASSAM SACHIVALAYA, DISPUR, ASSAM, PIN-
781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF FISHERIES
POST OFFICE- ASSAM SACHIVALAYA
DISPUR
ASSAM
PIN- 781006

3:THE SECRETARY TO THE GOVT. OF ASSAM
FISHERIES DEPTT.
POST OFFICE- ASSAM SACHIVALAYA
DISPUR
ASSA
PIN- 781006

4:THE DIRECTOR OF FISHERIES
GOVT. OF ASSAM
MEEN BHAWAN
POST OFFICE- GOPINATH NAGAR

DISTRICT- KAMRUP(METRO)
PIN- 781016

5:SMTI. BINA DEVI
RESEARCH ASSISTANT (STATISTICS)
OFFICE OF THE DIRECTOR OF FISHERIES
GOVT. OF ASSAM
MEEN BHAWAN
P.O.- GOPINATH NAGAR
DIST.- KAMRUP(METRO)
PIN- 781016

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

25.05.2023

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. D. Nath, learned Senior Govt. Advocate, Assam appearing for the official respondents.

None has appeared for the respondent No.5.

The writ petitioner herein was initially appointed as an Investigator on 01.03.1986 in the Fisheries Department. He has retired from service with effect from 28.02.2019 on attaining the age of superannuation. The grievance of the petitioner is that during his entire service career not a single promotion was given to him. The same was apparently because of the fact that the post of Investigator was not included in the Assam Fisheries Service (Recruitment and Promotion) Order, 1989 as a cadre post and therefore, it was not the feeder cadre for the next promotional post of Assistant Research Officer.

Notwithstanding the same and despite the fact that he has already attained

the age of superannuation, the petitioner seeks a writ of mandamus directing the respondents firstly to amend the Order of 1989 so as to include the post of Investigator into the feeder cadre for the promotional post of Assistant Research Officer then to consider his case for promotion and thereafter, give him the financial benefits by treating him in the cadre of Assistant Research Officer. As noted above, the petitioner has already retired from service during the pendency of this writ petition. Therefore, at this stage, the Writ Court would not issue a mandamus directing the respondents to amend the Service Order only to incorporate the post of Investigator in the schedule of posts, which forms the feeder cadre for the non-promotional post, so as to redress the grievance of the petitioner. It is no doubt correct that the petitioner appears to have been wrongfully denied the avenue of even a single promotion during his entire service career. However, it is also correct that the petitioner has slept over his rights for nearly three decades. Just a few months before his retirement, he has approached this Court by filing the instant writ petition with the above prayers. Having regard to the facts and circumstances of the case, the prayer made by the petitioner cannot be considered at this point of time. Rather, it can be said that due to delay in approaching the Court the petitioner has missed the bus. As such, this writ petition is held to be not maintainable in law as well as in the facts and circumstances of the case. The same is accordingly dismissed.

JUDGE

Comparing Assistant