

GAHC010082372020



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

**Case No. : WP(C)/2440/2020**

NAYAN JYOTI DEKA  
S/O. LT. MAKUNDA RAM DEKA, R/O. VILL. DAGAON, P.O. DAGAON, DIST.  
KAMRUP (R), ASSAM, PIN-781133.

VERSUS

THE STATE OF ASSAM AND 2 ORS.  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, FOREST  
DEPTT., ASSAM SECRETARIAT, DISPUR, GUWAHATI-06.

2:THE CHIEF SECRETARY  
TO THE GOVT. OF ASSAM  
DISPUR  
GHY.-06  
ASSAM.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS

ARANYA BHAWAN  
PANJABARI  
GUWAHATI-37  
ASSAM

**Advocate for the Petitioner : MR. J KALITA**

**Advocate for the Respondent : SC, FOREST**

**BEFORE**  
**HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER****Date : 30-11-2023**

Heard Mr. J. Kalita, learned counsel for the writ petitioner. Also heard Ms. M. Bhattacharjee, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondent No. 2 as well as Mr. I. Borthakur, learned counsel appearing for the respondent Nos. 1 and 3.

The father of the petitioner, who was serving as Forester-1 in the Forest Department, died-in-harness on 19-06-2008. Having lost the sole bread earner of the family, the petitioner, being the son, had submitted an application on 25-08-2008 seeking appointment on compassionate ground in any Gr-III/ Gr-IV post. It appears that at that time, there was no District Level Committee (DLC) and therefore, the case of the petitioner was sent directly to the State Level Committee (SLC).

By the resolution adopted in the meeting held on 13-08-2014, the SLC had recommended the case of the petitioner for appointment against a vacancy of Gr-III post for the year 2010. Notwithstanding such recommendation, no action has been taken by the departmental authority to issue the order of appointment to the petitioner. Hence, this writ petition.

The State has not filed affidavit responding to the prayer made in the writ petition although this proceeding was instituted before this Court as far back on 09-06-2020. The learned standing counsel, Forest Department has merely submitted that there is no vacancy, as a result of which, no order of appointment could be issued to the petitioner. The said submission of the learned departmental counsel is found to be wholly unacceptable. It is inconceivable that the SLC would make recommendation for

appointment without making proper verification of vacancies. Therefore, once the SLC makes a recommendation for appointment, the department would be under a bounden duty to give effect to such recommendation by issuing consequential order of appointment. It is not possible for this Court to believe that since the year 2010, which year finds mention in the recommendation by the SLC, no vacancy in the Gr-III category in the Forest Department has arisen for accommodating the petitioner.

The petitioner had submitted his application on time and the same also appears to have been processed by following proper norms. The department has not come up with any plausible explanation for not acting on the recommendation of the SLC. Once there is a recommendation of the SLC in favour of the petitioner, the same cannot be diluted by the departmental authority by taking a vague and unsustainable stand that there was no vacancy to accommodate the petitioner.

Situated thus, this Court is of the opinion that the petitioner had made out a good case for interference by this Court. Therefore, this writ petition is being disposed of with a direction upon the respondent Nos. 1 and 3 to implement the decision of the SLC and issue the order of appointment in favour of the petitioner, as per the recommendation made by the SLC, within 03 (three) months from the date of receipt of a certified copy of this order.

With the above observation, this writ petition stands disposed of.

**JUDGE**

GS

**Comparing Assistant**