

GAHC010085272020



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

Case No. : WP(C)/2549/2020

MUKUT BANIA AND ANR.
S/O- LATE BHABIN CH BANIA, R/O- VILL- AGDOLA, P.O- BAIHATA
CHARIALI, DIST- KAMRUP, ASSAM, PIN- 781381

2: JITEN DAS
S/O-LATE MAHENDRA DAS
R/O- VILL AND P.O- DOLAKHAT
P.S- MUKALMUA
DIST- NALBARI
ASSAM
PIN- 78131

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY ITS COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HOME DEPTT, ASSAM, JANATA BHAWAN, DISPUR, GUWAHATI- 781006

2:DIRECTOR GENERAL OF POLICE
ASSAM POLICE HQ
ULUBARI
GUWAHATI, PIN- 781007

3:DEPUTY INSPECTOR GENERAL OF POLICE (A)
ASSAM POLICE HQ
ULUBARI
GUWAHATI, PIN- 781007

4:ANIL RAHANG
SR ASSTT
OFFICE OF THE SUPERINTENDENT OF POLICE
BAKSA
DIST AND P.O- BAKSA
ASSAM, PIN- 781343

5:JYOTI BORAH
SR ASSTT
OFFICE OF THE SUPERINTENDENT OF POLICE
KAMRUP
DIST AND P.O- KAMRUP
ASSAM, PIN- 78103

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

30.08.2023.

Heard Mr. B.K. Das, learned counsel for the petitioners. Also heard Mr. J.K. Goswami, learned Addl. Govt. Advocate appearing for the respondent Nos.1—3 and Mr. B. Gogoi, learned counsel appearing for the respondent No.5.

2. This writ petition has been filed with the following prayers:

“(i) to admit this petition,

(ii) Issue notice upon that respondents and call for the records,

(iii) to issue a writ in the nature of Certiorari by setting aside the impugned promotion order dated 20.11.2019,

(iv) to set aside the promotion order dated 20.11.2019, in respect of the respondent Nos.4 and 5 to the post of Senior Assistant issued by the Deputy Inspector General (A), Assam Police Head Quarters, Ulubari, Guwahati.

(v) to issue a writ in the nature of Mandamus directing the Respondents to consider the case of the petitioners for promotion to the post of Senior Assistant, Assam Police Head Quarters, Assam and/or may pass such order/orders as may deem fit and proper.”

3. The grievances of the petitioners are that they are senior to the private respondent Nos.4 & 5, in the post of Junior Assistant, as per the Gradation List as on 01.01.2009. The position of the petitioner Nos.1 & 2 in the Gradation List are at Sl. No.275 and 280 respectively, whereas the position of the respondent No.4 was at Sl. No.281. However, the respondent No.5 is shown to be senior at Sl. No.241.

4. The petitioners' cases not having been considered, being aggrieved, they approached this Court by filing the present Writ Petition, for appropriate orders.

5. The pleadings have been exchanged between the parties.

6. By an additional affidavit filed by the petitioners, it has been brought on record that the petitioners have, in the meantime, been promoted to the higher post of Senior Assistant, by the order dated 13.02.2023.

7. It is submitted by the respondents that the respondent No.4 was a person with disability and was accordingly promoted in that quota. As such the petitioners cannot claim promotion in that quota. Therefore, their claims made against respondent No.4 cannot be sustained in law.

8. Mr. J.K. Goswami, learned Addl. Govt. Advocate appearing for the respondent Nos.1—3 submits that since the petitioners have also been promoted in the meantime, nothing remains to be decided any further in the Writ Petition. Accordingly, the Writ Petition may be closed.

9. Learned counsels for the parties have been heard and the pleadings are carefully perused.

10. It is seen that the present Writ Petition was originally filed seeking remedy before this Court for a direction to the respondent authorities to promote the petitioners to the next higher post of Senior Assistant under the office of the

Inspector General of Police, Assam. During the pendency of the Writ Petition, the promotion order dated 13.02.2023 has been issued, whereby the petitioners have also been promoted to the post of Senior Assistants.

11. Under such circumstances, the original prayer made in the Writ Petition that their cases should also be considered for promotion or that the promotion given to the respondent Nos.4 & 5 be interfered with are no longer required to need not be considered. However, the learned counsel for the petitioners urges before the Court that although the petitioners have been promoted, their claim for seniority w.e.f. 20.11.2019, the date from which the other similarly situated persons were promoted.

12. In that view of the matter, the Writ Petition stands closed permitting the petitioners to file detailed representation before the respondent authorities i.e. respondent No.2, ventilating their grievances that their promotions have not been given effect from 20.11.2019 and that they have not been placed in the appropriate position in the Gradation List. This representation shall be filed within one week from the date of receipt of certified copy of this order.

13. The authorities will, thereafter, hear the petitioner and other affected parties and pass a detailed speaking order, within 60 (sixty) days from the date of receipt of the certified copy of this order. Any such order, that is passed, copy thereof shall be served on the petitioners.

14. The Writ Petition stands disposed of in terms of the above direction. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant