

GAHC010107342023



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

Case No. : WP(C)/2824/2023

RABI CHANDRA DAS
S/O- LATE RUDRA MOHAN DAS ,
FORESTER I (SINCE RETIRED),

R/O- VILLAGE MANIPUR (DEWCHUA),
P.O AND P.S- RANIGANJ,
DIST- DHUBRI, ASSAM, PIN-783345

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, FOREST DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE

ARANYA BHAWAN
PANJABARI ROAD
GUWAHATI
ASSAM
PIN- 781037.

3:BODOLAND TERRITORIAL COUNCIL
REP. BY THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FOREST
AND CHD
KOKRAJHAR
PIN-783370

4:THE CONSERVATOR OF FOREST
WESTERN ASSAM CIRCLE
KOKRAJHAR

PIN-783370
ASSAM

5:THE DIVISIONAL FOREST OFFICER
KACHUGAON DIVISION

BODOLAND TERRITORIAL COUNCIL DEPARTMENT OF FOREST
GOSSAIGAON
PIN-783360
ASSAM

6:SUBHAS MUSHAHARY
DEPUTY RANGER (RETD)

OFFICE OF THE DIVISIONAL FOREST OFFICER

PARBATJHARA DIVISION

SUPARIGHAT

BTC
PIN-78334

Advocate for the Petitioner : MR. A DEKA
Advocate for the Respondent : SC, BTC

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

01.09.2023

Heard Shri S. Choudhury, learned counsel for the petitioner whereas the Forest Department is represented by Shri D. Gogoi, learned Standing Counsel. The BTC is represented by Shri B. Choudhury, the learned Standing Counsel.

The petitioner has approached this Court with regard to the issue of his promotion. The petitioner who was serving as a Forester-I has claimed that he ought to have been considered and promoted to the next higher post of Deputy Ranger inasmuch as the private respondent no. 6 who has been stated to be junior to him

was promoted on 17.01.2020. It is submitted that though the petitioner was initially appointed as Forest Guard, after long 35 years of service, he was promoted to Forester-II and thereafter, to Forester-I.

The petitioner accordingly prays for a direction for consideration of his case for promotion.

Per contra, Shri D. Gogoi, learned Standing Counsel, Forest Department has submitted that it is an admitted case that the petitioner had retired from the service as Forester-I on 31.03.2021. He has also referred to the earlier order of this Court dated 28.08.2023 wherein it has been recorded regarding the inordinate delay in approaching the Court and also the absence of any pleadings with regard to the criteria for promotion. He accordingly contends that only by citing the instance of the respondent no. 6 by claiming that the petitioner is senior to him, that may not be the sole basis for which this writ petition can be entertained.

The learned standing counsel has also submitted that not only the petitioner has retired in the meantime, even the respondent no. 6 has also retired and therefore, there is no live cause of action to be adjudicated.

Shri B. Choudhury, the learned Standing Counsel, BTC has also taken a similar stand like that of Shri Gogoi, the learned Standing Counsel, Forest Department.

This Court has noticed that on the last occasion i.e., 28.08.2023 after recording the aforesaid submissions, Shri Choudhury, the learned counsel for the petitioner was granted time to obtain instructions. Shri Choudhury, the learned counsel however submits that no instructions could be given to him with regard to the criteria of promotion.

This Court in exercise of powers under Article 226 of the Constitution of India is a Court of Equity wherein the conduct of the parties are of paramount importance. The petitioner had retired more than two years back and has filed this writ petition claiming retrospective promotion by citing an example of respondent no. 6 by claiming

that he is junior to the said respondent no. 6. However, even the criteria for promotion to the post of Forester-I has not been stated in the writ petition.

It is also not in dispute that both the petitioner and the respondent no. 6 have retired from service.

In view of the above, this Court is of the opinion that no effective relief can be granted in this writ petition.

In view of the above, the writ petition stands closed.

JUDGE

Comparing Assistant