

GAHC010118862023



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

**Case No. : WP(C)/3154/2023**

PRABIR PAUL  
SON OF LATE PRANBALLAV PAUL,  
RESIDENT OF VILLAGE- GUNOMOYEE ROAD,  
P.O.- TARAPUR, DISTRICT- CACHAR,  
ASSAM, PIN- 788003.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT,  
DISPUR, GUWAHATI- 781006.

2:DIRECTOR  
WOMEN AND CHILD DEVELOPMENT  
UZANBAZAR  
GUWAHATI  
ASSAM

PIN- 781001.

3:DISTRICT SOCIAL WELFARE OFFICER  
CACHAR  
ASSAM  
PIN- 788015.

4:CHILD DEVELOPMENT PROJECT OFFICER  
SALCHAPTA ICDS PROJECT  
CACHAR  
ASSAM  
PIN- 788026

**Advocate for the Petitioner : MR. B CHAKRABORTY**

**Advocate for the Respondent : GA, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER**

**02.06.2023**

Heard Mr. B. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. H. Sharma, learned Additional Senior Government Advocate, Assam appearing for all the respondents.

2. The writ petitioner herein was appointed against a Grade-IV post in the establishment of Child Development Project Officer, Salchapra ICDS Project, Cachar in the year 1995 and since then, he has been continuously serving in the said post. According to the petitioner, he is entitled to be considered for promotion to a Grade-III post against the 15% quota earmarked for the promotional category under the relevant Rules. Notwithstanding the same, the respondents have not considered his case for promotion. On the contrary, as many as 69 (sixty nine) candidates have been directly recruited in the category of Grade-III posts very recently i.e. on 25.05.2023, as a result of which the promotional avenue of the petitioner has been practically obliterated.

4. By referring to the Assam Ministerial District Establishment Service Rules, 1967 (for short "the Rules of 1967"), Mr. Chakraborty submits that as per the provisions of the Rules (as amended), the authorities are bound to maintain 15% promotional quota in the Grade-III posts and therefore, the non-consideration of the prayer made by the petitioner is illegal.

5. Law is firmly settled that right to be considered for promotion to a higher post is a fundamental right provided that the employee comes within the zone of consideration and there are vacancies available in the higher grade. In view of the assertions made in the writ petition, this Court is of the opinion that the case of the petitioner ought to be considered for promotion due to the long years of services rendered by him in the Grade-IV post provided there are vacancies available in the Grade-III category and the petitioner fulfils the criteria prescribes by the Rules 1967 (as amended).

6. Mr. H. Sharma, learned Senior Government Advocate, Assam submits that this writ petition can be disposed of with a direction upon the respondent no.2 to consider the case of the petitioner for promotion in a time bound manner.

7. In view of the above, this writ petition is being disposed of at the stage of Motion hearing with a direction upon the respondent no.2 to consider the case of the petitioner for promotion, in the light of the observation made hereinabove, if the petitioner fulfils the requirement of the Rules of 1967 (as amended) and there are vacancies available in the Grade-III category. The aforesaid exercise be carried out and completed as expeditiously as possible but not later than 90 (ninety) days from the date of receipt of a certified copy of this order.

8. Writ petition stands disposed of accordingly.

**JUDGE**

**Comparing Assistant**