

GAHC010131522013



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

Case No. : WP(C)/5295/2013

BISWAJIT KUMAR NATH and 4 ORS
S/O LT. K.N. NATH, R/O NIRUPAM APARTMENT, ABC, GHY-5, DIST-
KAMRUP METRO, ASSAM

2: RUPAM DAS
S/O LT. K.K. DAS
R/O RAJGARH ROAD
GUWAHATI
DIST- KAMRUP METRO
ASSAM

3: PURANJOY GOSWAMI
S/O LT. RAM GOSWAMI
R/O CHENIKUTHI
GHY-3
DIST- KAMRUP METRO
ASSAM

4: PRASANNAJIT SAIKIA
S/O LT. P.C. SAIKIA
R/O DHANNWA NAPAR
TEZPUR
DIST- SONITPUR
ASSAM

5: PRATUL SARMA
S/O SRI BASUDEV SARMA
R/O JATIA
KAHILIPARA ROAD
GUWAHATI
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
AGRICULTURE DEPARTMENT, DISPUR, GHY-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

AGRICULTURE DEPARTMENT
DISPUR
GHY-6

3:THE DIRECTOR OF AGRICULTURE
ASSAM
KHANAPARA
GHY-22

4:THE PRINCIPAL SECRETARY
PERSONNEL A DEPARTMENT
GOVT. OF ASSAM
DISPUR
GHY-6

5:HIREN DAS
PRESENTLY WORKING AS ASSTT. EXECUTIVE ENGINEER
AGRICULTURE DEPARTMENT
GUWAHATI
DIST- KAMRUP
ASSAM

6:HIREN BORO
PRESENTLY WORKING AS ASSTT. EXECUTIVE ENGINEER
AGRICULTURE DEPARTMENT
GUWAHATI
DIST- KAMRUP
ASSAM

7:RANBIR KAKATY
PRESENTLY WORKING AS ASSTT. EXECUTIVE ENGINEER
AGRICULTURE DEPARTMENT
GUWAHATI
DIST- KAMRUP
ASSAM

8:MADHAB DOLEY
PRESENTLY WORKING AS ASSTT. EXECUTIVE ENGINEER
AGRICULTURE DEPARTMENT
GUWAHATI
DIST- KAMRUP

ASSAM

9:RAMSING HANSE
PRESENTLY WORKING AS ASSTT. EXECUTIVE ENGINEER
AGRICULTURE DEPARTMENT
GUWAHATI
DIST- KAMRUP
ASSA

Advocate for the Petitioner : MR.A SARMA

Advocate for the Respondent : MR. D SARMAH (R5)

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 02-01-2023

Heard Mr. U K Nair, learned senior counsel for the petitioners. Also heard Mr. D Mazumdar, learned Additional Advocate General and Mr. D Nath, learned Senior Government Advocate for the respondents in the Agriculture Department and Personnel (A) Department of the Government of Assam as well as Ms. N Shyam, learned counsel for the respondents no. 5 to 9.

2. The petitioners herein are Assistant Executive Engineers in the Agriculture Department of the Government of Assam and belong to the unreserved category whereas the respondents no. 5 to 9 are also Assistant Executive Engineers who were promoted to the next higher cadre and belong to the reserved category. The petitioners assail the accelerated promotion and the consequential seniority meted to the respondents no. 5 to 9 on the ground that one of the requirements of invoking the provisions of Article 16 (4A) of the Constitution of India i.e. to arrive at the quantifiable data, had not been undertaken.

3. It is stated that the issue regarding the entitlement to the accelerated promotion and the consequential benefits is already the subject matter of a series of writ petitions being WP(C) No. 2999/2020 and other writ petitions and it is also stated that the said batch of writ petitions have already been heard and the matter is CAV. Accordingly, it is submitted that the

question of law involved would be decided by the judgment in WP(C) No. 2999/2020 and other writ petitions and no independent judgment is required in this writ petition.

4. With regard to the other aspect, we have taken note that whatever promotion or consequential seniority had been meted to the respondents no. 5 to 9, had been done 12 or 11 years prior and there is no interim order in this writ petition. Even if the judgment that may be rendered in WP(C) No. 2999/2020 and other writ petitions would be in favour of the unreserved category candidates like that of the petitioners, another question would remain as to what consequential benefits the petitioners would be entitled vis-à-vis the private respondents who had already been promoted about 11 or 12 years back and may be subsequent promotions have also been meted in their favour.

5. As regards the entitlement of the petitioners vis-à-vis the respondents no. 5 to 9, we leave it entirely to the wisdom of the state respondents which may be decided upon any application being made by the petitioners subsequent to the judgment that may be rendered in WP(C) No. 2999/2020 and other writ petitions where the question of law may be decided.

Writ petition stands closed with the aforesaid observations.

JUDGE

Comparing Assistant