

GAHC010145532023



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

Case No. : WP(C)/3994/2023

ASHIM KUMAR NATH AND ANR
S/O HARENDRA KUMAR NATH, R/O SATI RADHIKA ROAD, SOUTH
HAIBARGAON, P.O.-HAIBARGAON, DIST-NAGAON, ASSAM, PIN-782002

2: SAUKAT ALI AHMED
S/O JAMSER ALI
R/O VILL- BAGHPARI
P.O.-MANGALDAI
DIST- DARRANG
ASSAM
PIN-78412

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, ASSAM SECRETARIAT, DISPUR, GUWAHATI-781006, ASSAM

2:THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVERNMENT
OF ASSAM
PUBLIC WORKS DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

3:THE SECRETARY
PUBLIC WORKS (ROADS) DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006
ASSAM

4:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM
PUBLIC WORKS (ROADS) DEPARTMENT

ESTABLISHMENT-B BRANCH
DISPUR-781006
ASSA

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 26-07-2023

Heard Mr. M.K. Choudhury, learned Sr. counsel assisted by Mr. P. Bharadwaj, learned counsel for the writ petitioners. Also heard Mr. R. Dhar, learned Addl. Sr. Govt. Advocate, Assam appearing for the State respondents.

The writ petitioners herein are presently serving as Assistant Engineer (Civil), PWD. Earlier they were denied promotion by the department on the ground that the qualification of "Section A&B of Associate Membership Examination AMICE(I) in Civil Engineering" from the Institution of Civil Engineers (India), Ludhiana, Punjab was not equivalent to BE degree and hence, there was a question mark on their educational qualification. The aforesaid stand of the departmental authorities was apparently taken on the basis of a decision of the Hon'ble Supreme Court rendered in "Orissa Lift Irrigation" case. However, being aggrieved by decision of the authorities, the petitioners had approached this Court by filing W.P.(C) No. 5104/2022, which was disposed of by order dated 08-08-2022 directing the authorities to pass a reasoned order on the claim of the petitioners for promotion. In view of the fact that other officers junior to the petitioners

having the same qualification and from the same institute were considered for promotion and had been duly promoted to the rank of Assistant Engineer (Civil), PWD, by the notification dated 10-05-2023, the petitioners were promoted to the rank of Assistant Engineer (Civil). The grievance of the petitioners, however, is to the effect that their promotion given by the notification dated 10-05-2023, ought to have been with retrospective effect from the day on which their juniors were promoted to the rank of Assistant Engineer (Civil).

Ventilating their grievance as above, the petitioners had submitted representations, both dated 01-06-2023, before the respondent No. 2. However, since no action has been taken on such representations till today, the petitioners have been compelled to approach this Court by filing the present writ petition.

Mr. Dhar, learned Govt. Advocate, Assam submits on instruction that the departmental authorities are examining the representations submitted by the petitioners and a decision will be taken in the matter without undue delay. If that be so and considering the nature of grievance expressed in the writ petition, this Court is of the opinion that no practical purpose will be served by keeping this writ petition pending before this Court any further.

This writ petition is, therefore, disposed of with a direction upon the respondent Nos. 1 and 2 to consider the representations dated 01-06-2023 submitted by the petitioners in accordance with law and pass reasoned order(s) therein, within a period of 06 weeks from the date of receipt of a certified copy of this order.

If the petitioners' continues to remain aggrieved in the matter even thereafter, it will be open for him/ them to approach this Court afresh by filing appropriate petition.

Writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant