

GAHC010168362023



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

Case No. : WP(C)/4400/2023

BHUBANESWARI CHOUDHURY
D/O- LATE PUWARAM CHOUDHURY, RESIDENT OF BAZANA PATHAR, P.S.
SIPAJHAR, DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, ASSAM,
DISPUR, GUWAHATI-06

2:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-06

3:THE JOINT DIRECTOR OF HEALTH SERVICES
MANGALDOI
DARRAN

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 04/08/2023

Heard Mr. R. De, learned counsel for the petitioner. Also heard Mr. D. P. Borah, learned standing counsel, Health appearing for the respondents.

2. This writ petition is filed by the petitioner who is still serving as Ward In-Charge of Mangaldai Civil Hospital. It is submitted that she joined as a Staff Nurse in the said hospital as far back as 01.10.1991. Thereafter, during the course of her service, she was transferred to different community health centres and in Civil Hospitals across the State. By order dated 08.12.2022 the petitioner and other similarly situated persons were considered for their due promotion and the petitioner was promoted as an Assistant Matron and posted in the Director of Health Services, Karbi Anglong. By the said order as many as 31 persons were promoted and the name of the petitioner is appears at serial No. 22. Thereafter, the petitioner by her application dated 16.12.2022 prayed for extension of time for joining at the same place of posting on the ground that she is suffering from Lumber Spondolysis and requires medical treatment. Thereafter petitioner was advised to undergo better treatment at Higher Centre and was advised bed rest for 1 month by the OPD in the Mangaldai Civil Hospital on 13.12.2022. Learned counsel for the petitioner has also referred to the Medical documents to support his contentions that the petitioner was suffering from Lumber Spondolysis.

3. The learned counsel for the petitioner submits that by communication dated 21.12.2022 the Director of Health Service had forwarded the prayer petition of the petitioner for extension of joining time to the Joint Secretary,

Department of Health and Family Welfare, Government of Assam. In pursuance to such communication the Joint Director to the Government of Assam, Health and Family Welfare Department had raised some queries from the Director of Health Service and which were accordingly furnished. The petitioner not having received any further communication permitting her to join in her place of posting preferred another representation dated 26.05.2023 before the Director of Health Service. The learned counsel for the petitioner submits that the same has remained pending and has not been disposed of.

4. The learned counsel for the petitioner submits that pursuant to the superannuation of the incumbent, the post of Assistant Matron, Janaram Chowka Model Hospital, Darrang has also fallen vacant. It is the submission of the learned counsel for the petitioner that the department may consider the prayer of the petitioner to permit her to join in the vacant post of Assistant Matron, Janaram Chowka Model Hospital, Darrang instead of under the office of Director of Health Services at Karbi Anglong in terms of the order dated 08.12.2022 considering her health condition and considering the fact that she will also superannuate on 31.03.2024.

5. Mr. D. P. Borah, learned standing counsel, Health appearing for the respondents submits that he has no instructions in the matter but the writ petition may be disposed of by permitting the concerned authorities to dispose of the pending representations as prayed for by the petitioner.

6. Having heard the learned counsel for the parties and upon due perusal of the pleadings on record, this Court is of the view that it will further the cause of justice if the writ petition is disposed of instead of keeping it pending. The prayers made by the petitioner before the Court are already before the concerned authorities in the form of her representations. The representation

dated 26.05.2023 stated to have been filed by the petitioner is stated to be pending before the Director of Health Services, Karbi Anglong.

7. If that be so the same be disposed of within a period of 30 (thirty) days from the date of receipt of certified copy of this order by a speaking order. Any such order that may be passed by the Director of Health Services, a copy thereof be furnished to the petitioner. The department will also consider the prayer of the petitioner made in the present writ petition that while permitting her the extended joining time whether the department can consider the prayer of the petitioner to permit her to join in Janaram Chowka Model Hospital, Darrang in the vacant post of Assistnat Matron, instead of the earlier place of posting as shown in the promotion order dated 08.12.2022. If the department is of the view that such alteration in the original promotion order is permissible then consequential orders thereof shall also be passed and communicated to the petitioner.

7. In terms of the above, the writ petition is allowed and disposed of. No order as to cost.

JUDGE

Comparing Assistant