

GAHC010175362023



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

Case No. : WA/369/2023

THE STATE BANK OF INDIA AND 4 ORS.
HAVING ITS CENTRAL OFFICE AT STATE BANK BHAVAN, MADAM CAMA
ROAD, MUMBAI- 400021, REP. BY ITS CHAIRMAN.

2: ZONAL MANAGER
STATE BANK OF INDIA
ZONAL OFFICE
BHANGAGARH GUWAHATI.

3: THE ASSTT. GENERAL MANAGER ADMIN
STATE BANK OF INDIA
ADMINISTRATIVE OFFICE
BHANGAGARH
GUWAHATI.

4: THE ASSTT. GENERAL MANAGER
STATE BANK OF INDIA
REGIONAL OFFICE
REGION- IV SILCHAR CACHAR.

5: BRANCH MANAGER
STATE BANK OF INDIA
SILCHAR BAZAR BRANCH
SILCHAR
P.O.- SILCHAR
CACHAR ASSAM- 788001

VERSUS

PAPLU NATH A
S/O- LT. PRASANTA KUMAR NATH, R/O VILL. and P.O.- BAROMONI, DIST.-
CACHAR, ASSAM.

For the appellants : Mr. M.K. Choudhury, Senior Advocate

For the respondent : Mr. M. Nath, Senior Advocate

Assisted by Mr. A. Bhattacharjee, Advocate

– B E F O R E –

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KARDAK ETE

03-10-2023

Heard learned counsel appearing for the parties and perused the material placed on record.

The instant intra-Court writ appeal is directed against the judgment/final order dated 16.06.2023 passed by the learned Single Judge whereby the writ petition, being, WP(C)1040/2015 preferred by the respondent herein was accepted and the appellant bank was directed to regularise his services.

Mr. M.K. Choudhury, learned senior counsel representing the appellant bank submits that direction to regularise the services of the writ petitioner was issued purely drawing parity from the fact that the another employee, namely, Sibendu Kumar Nath had been regularised in service after his initial appointment as a General Attendant. Learned senior counsel submits that this ground was not pleaded in the writ petition and hence, the appellants never got an opportunity to counter the same. He has referred to several averments made in

the writ appeal explaining the reasons by which the case of the respondent/writ petitioner is totally distinguishable from that of Sibendu Kumar Nath.

Mr. M. Nath, learned senior counsel representing the respondent is not in a position to dispute the submissions of Mr. M.K. Choudhury that no pleading was made in the writ petition claiming parity in the cases of the appellant and Sibendu Kumar Nath. However, his submission is that the respondent/writ petitioner has several other reasons/grounds for seeking a direction for regularisation of services.

Having considered the submissions advanced at Bar, we are of the opinion that as in the writ petition there is no averment regarding regularisation of services of Sibendu Kumar Nath and the claim of relief on parity, the appellants herein were precluded from responding to this pertinent ground on which, the writ petition was accepted.

At this stage, learned senior counsel Mr. M. Nath representing the respondent submits that no purpose would be served by keeping this writ appeal pending and thus, the Court may be pleased to remand the matter to the Writ Court with liberty to the respondent/writ petitioner to file additional pleadings on the aforesaid grounds, to which Mr. M.K. Choudhury, learned senior counsel representing the appellants does not object.

In wake of the discussion made above, the impugned order dated 16.06.2023 is reversed. The matter is remitted to the learned Single Bench for fresh consideration and decision of the writ petition on merits. The respondent/writ petitioner shall be at liberty to file additional pleadings to project his cause on the basis of parity with Sibendu Kumar Nath. The appellant bank will be given liberty to file an affidavit-in-opposition, if so desired.

The writ appeal is allowed in these terms.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant