

GAHC010178022023



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

Case No. : WP(C)/4672/2023

ABDUR ROUF AHMED
SON OF LATE INNAS ALI AHMED,
RESIDENT OF FLAT NO. 103, FIRST FLOOR,
HATIGAON ROAD, NEHARS RESIDENCY,
NEAR LITTLE FLOWER SCHOOL,
HATIGAON CHARIALI, DISTRICT- KAMRUP(M),
ASSAM, PIN- 781038.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE ADDL. CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM,
ENVIRONMENT AND FOREST DEPARTMENT,
DISPUR, GAUHATI-06.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GAUHATI-06.

3:THE DIVISIONAL FOREST OFFICER
NAGAON SOCIAL FORESTRY DIVISION
KATIAMARI
NAGAON
ASSAM.

4:THE DIVISIONAL FOREST OFFICER
KAMRUP EAST DIVISION
BASISTHA
GAUHATI-28

DISTRICT- KAMRUP

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : SC, FOREST

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

21/08/2023

Heard Mr. J Ahmed, learned counsel for the petitioner and Mr. I Borthakur, learned Standing counsel, Environment and Forest Department for the respondent Nos. 1 to 4.

2. By Notification No. ECF 322073/9 dated 26.07.2023, the Secretary to the Govt. of Assam, Environment and Forest Department promoted the petitioner from the rank of Forest Ranger serving at Kuloi Social Forestry Range under Nagaon Social Forestry Division to the rank of Assistant Conservator of Forests in the scale of pay of Rs. 30,000/- - Rs.1,10,000/- plus Grade Pay of Rs.12,700/- in the Pay Band 4 with other allowances as admissible and posted him as Assistant Conservator of Forests in the Office of the Divisional Forest Officer, Kamrup East Division, Basistha, Guwahati against an existing vacancy with effect from the date of his taking over charge observing that his inter-se-seniority shall be fixed later on.

3. Pursuant to the said Notification dated 26.07.2023, the petitioner on 27.07.2023 handed over the charge to the concerned Divisional Forest Officer, Nagaon Social Forestry Division, Nagaon and on 07.08.2023, he joined in the office of the Divisional Forest Officer, Kamrup East Division, Basistha, Guwahati as an Assistant Conservator of Forest.

4. It is to be noted herein that the petitioner was not allowed to join as Assistant Conservator of Forests in the Office of the Divisional Forest Officer, Kamrup East Division, Basistha, Guwahati in terms of the said Notification dated 26.07.2023. As such, he preferred a writ petition being WP(C) No. 4415/2023 that was disposed of on 08.08.2023 as during the pendency of the said writ petition, the petitioner could join his service in the Office of the Divisional Forest Officer, Kamrup East Division, Basistha, Guwahati on 07.08.2023.

5. However, by another Notification No. ECF 322073/11 dated 08.08.2023, the Secretary to the Govt. of Assam, Environment and Forest Department partially modified the earlier Notification dated 26.07.2023 and posted the petitioner as Assistant Conservator of Forest in the Office of the Divisional Forest Officer, Lakhimpur Social Forestry Division with effect from the date of taking over charge against existing vacancy. Being aggrieved, the petitioner has preferred this writ petition.

6. It is seen from the order of the Court dated 08.08.2023 passed in WP(C) No. 4415/2023 that was preferred by the petitioner placed before the Court by Mr. Ahmed, learned counsel for the petitioner that on 08.08.2023, the counsel representing the Forest Department produced a copy of the joining report of the petitioner dated 07.08.2023 as an Assistant Conservator of Forest in the Office of the Divisional Forest Officer, Kamrup East Division, Basistha pursuant to the Notification dated 26.07.2023 issued by the Secretary, Govt. of Assam in the Environment and Forest Department.

7. After his joining on 07.08.2023 as an Assistant Conservator of Forest in the Office of the Divisional Forest Officer, Kamrup East Division, Basistha in terms of the said Notification No. ECF 322073/9 dated 26.07.2023, the respondent authorities, i.e., the Secretary, Govt. of Assam in the Environment and Forest Department could not have passed any such order on 08.08.2023 modifying his earlier order of posting as Assistant Conservator of Forest and posted him in the office of the Divisional Forest Officer, Lakhimpur Social Forestry Division considering the fact that on 26.07.2023 he was posted in the office of the Divisional Forest Officer, Kamrup East Division, Basistha against an existing vacancy and after his joining in the said post on 07.08.2023, the petitioner could not have been posted again at North Lakhimpur Social Forestry Division by issuing the Notification dated 08.08.2023, which is in clear violation of the Office Memorandum No. ABP.116/2001/34 dated 06.08.2023.

8. Considering the above, this writ petition is disposed of at the motion stage itself directing the petitioner to file a detail representation before the Secretary, Govt. of Assam in the Environment and Forest Department on or before 24.08.2023 stating his grievances pertaining to the Notification No. ECF 322073/11 dated 08.08.2023 issued by the said authority posting him as an Assistant Conservator of Forest in the Office of the Divisional Forest Officer, Lakhimpur Social Forestry Division, obtaining necessary acknowledgment from the said authority in that regard.

9. In the event of filing such representation by the petitioner within the said specified time, as directed above; the Secretary, Govt. of Assam in the Environment and Forest Department shall dispose of the representation of the petitioner on or before 15.09.2023, intimating him about the

outcome of the same.

10. Subject to taking steps as directed above, the impugned Notification No. ECF 322073/11 dated 08.08.2023 issued by the Secretary, Govt. of Assam in the Environment and Forest Department shall remain suspended till disposal of the representation of the petitioner, if he is not already released from the office of the Divisional Forest Officer, Kamrup East Division, Basistha, Guwahati.

11. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant