

GAHC010198622019



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

Case No. : WP(C)/6155/2019

DEBIRAM HAZARIKA
S/O LT. TULSI HAZARIKA, R/O KHUTIAPOTA GAON, P.O.NAHATIA, DIST.
JORHAT-785108, ASSAM

VERSUS

THE ASSAM AGRICULTURE UNIVERSITY AND 6 ORS.
TO BE REP. BY THE VICE CHANCELLOR, DIST. JORHAT, ASSAM-785013

2:THE REGISTRAR
ASSAM AGRICULTURE UNIVERSITY
JORHAT
DIST. JORHAT-785013
ASSAM

3:THE DIRECTOR OR RESEARCH (AGRI)
ASSAM AGRICULTURE UNIVERSITY
JORHAT
DIST. JORHAT-785013
ASSAM

4:DANDI DHAR KALITA
S/O HAREN KALITA
PERMANENT R/O HARIUNDUB
P.O. JAMTOLA
RANGIYA
PIN-781365
DIST. KAMRUP (RURAL)
ASSAM AND NOW POSTED AT THE ASSAM AGRICULTURE UNIVERSITY
AND NOTICE THROUTH THE REGISTRAR
AAU
JORHAT-785013

ASSAM

5:BIKASH KUMAR DUTTA
S/O DHIRENDRA NATH DUTTA
MALOWALI
MILANJYOTI PATH
JORHAT-785008 AND NOW POSTED AS FA-III
DIRECTORATE OF RESEARCH (AGRI)
AAU
JORHAT-785013

6:ANANTA SAIKIA
S/O SARURAM SAIKIA
VILL. MILANNAGAR
P.O. TITABAR
PIN-785630
DIST JORHAT
ASSAM
AND NOW POSTED FA-III
RARS
TITABAR
DIST. JORHAT-785630

7:RANJIT HAZARIKA
S/O LT. KANAKESWAR HAZARIKA
ASSAM AGRICULTURE UNIVERSITY CAMPUS
JORHAT-785013 AND NOW POSTED AS FA-III
O/O THE SENIOR ESTATE OFFICER
AAU
JORHAT-78501

Advocate for the Petitioner : MR H K BAISHYA

Advocate for the Respondent : SC, AAU

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

13.10.2023

Heard Mr. H.K. Baishya, learned counsel for the petitioners. Also heard Mr. P. Katakya, learned Standing Counsel, Assam Agricultural University.

This writ petition has been filed by the petitioner who was appointed as Grade-IV under the Assam Agriculture University. The petitioner put to challenge the promotional orders issued to private respondents No. 5 to 7 for promotion to the post of Grade-III overlooking the claim of the petitioner. Further prayer was to grant all benefits including the benefits of MACP.

The grievance of the petitioner is that although he satisfied all the criteria, his case was overlooked by the Department and the respondents No. 4 to 7 were considered by overlooking his claim. While the writ petition was pending, the University filed their affidavit on 27.09.2023. In Paragraph- 11 and 13, the following averments are made:

“11. That with regard to the statement made in paragraph 12, the respondents begs to state that according to the Service Book, the petitioner was granted first scale promotion on 31.01.2004 and second scale promotion on 01.01.2012. As per Scale promotion Scheme of AAU, only two promotions were granted and same was replaced by newly Modified Assured Career Progression Scheme (MACPS) with effect from 01.01.2017. The petitioner, Debiram Hazarika retired from service on 31.07.2020. Though, applications were invited on 20.09.2021 vide Memo No. AAU/RG/1.5.106(MACPS)/2021/10,140 but no applications was received during the said period and therefore, the case of the petitioner was not considered for the benefit under MACPS.

12. That with regard to the statement made in paragraph 13 the answering respondent begs to state that the respondent no 4 — 7 were never promoted to the post of Field Assistant Grade III. They are recruited as Field Assistant Grade III against the advertisement dated 2/2014 through written test and interview. The respondent No. 4 had appeared in the Written Test held on 1.02.2015 sitting in the Room 2 of Surgery Building, College of Veterinary Science, Assam Agricultural University, Khanapara, Ghty-22 as per Calling letter No. 7(80)2014/DRA(E)/16511-18461/ dated 10.01.2015. Like all the candidates in the room the respondent no. 4

duly signed on the Attendance sheet against his name, Roll No 326 and put his Roll No. 326 and signed on then Answer Script in presence of the Invigilator.

13. That the aforesaid Writ petition filed by the petitioner for cancellation of the post of the private respondents no. 4-7 and further consideration of his case for the post / case for any Grade III post as a "Field Assistant as per the existing Rules. However, it appears that in pursuance to the advertisement dated 2/ 2014, the petitioner appeared for the post of Field Assistant Grade III under Directorate of Research (Agriculture). The petitioner did not succeed in the selection procedure and therefore, his name was not recommended by the Selection Committee for the post of Field Assistant-III. However, the private respondents 4-7 appeared in the written test and Oral interview of the selection process and they were selected and appointed. Whereas, the petitioner is working as a Laboratory Assistant in an isolated post having no scope of promotion. Accordingly, he has been allowed to avail the Financial benefits of 2 (two) scale of promotion under ACP/MACP vide order No's (1) AAU/RG-1.9(%) /2009-2010/8031-051 dated 1.08.2009 and AAU/RG-1.9(5)/2013-2014/1354-584 dated 26.12.2014 respectively."

The learned counsel for the petitioner submits that it is admitted by the respondents that the MACP Scheme was implemented with effect from 01.01.2017 although the applications were invited on 20.09.2021 vide the memo No. AAU/RG/1.5.106(MACPS)/2021/10,140. However, the petitioner came to be superannuated on 31.07.2020.

The learned counsel for the petitioner submits that although in his writ petition, his prayer was for setting aside and interfering with the promotions granted to respondents No. 4, 5, 6 & 7, considering the fact that he has in the meanwhile superannuated on 31.07.2020 and also taking note of the averments made in Paragraph No. 11 of the said affidavit that the MACP Scheme was implemented w.e.f 01.01.2017, the petitioner be permitted to approach the authorities and apply make necessary applications for getting the benefits under

the MACP Scheme which ought to have been implemented while the petitioner was in service.

Mr. Katakya, learned counsel for the university does not object to the prayer made.

Accordingly, the writ petition stands closed permitting the petitioner to approach the authority namely the Registrar, Agriculture University and make necessary applications for consideration and release of the benefits under the MACP Scheme which was stated to have been implemented w.e.f. 01.01.2017 which is well prior to the date of superannuation of the petitioner.

As referred above, the petitioner superannuated on 31.07.2020, if the petitioner files any application as permitted by this Court, the authority will consider the prayer made by the petitioner for release of the benefits under the MACP Scheme which was implemented on 01.01.2017. The competent authority will, thereafter, pass appropriate speaking order and release whatever benefits are due to the petitioner within a period of 30 days from the date of receipt of the application along with the certified copy of this order.

In view of the above direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant