

GAHC010224592022



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

Case No. : WP(C)/7312/2022

SANJIB CHOUDHURY
S/O. LT. SURESH CHANDRA CHOUDHURY, VILL. THIKANA APARTMENT,
FLAT NO.1B, NARSING ROAD WEST, AMBICAPATTY, SILCHAR, DIST.
CACHAR, ASSAM, PIN-788004.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
TO BE REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, TRANSPORT
DEPTT., DISPUR, GUWAHATI-06.

2:DIRECTOR

INLAND WATER TRANSPORT
ASSAM
ULUBARI
GUWAHATI-07.

3:EXECUTIVE ENGINEER

INLAND WATER TRANSPORT
DIVISION
SILCHAR
P.O. AND P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN-788003

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : SC, A S T C

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 31-05-2023

Heard Mr. L.R. Mazumder, learned counsel for the writ petitioner. Also heard Ms. M.D. Bora, learned standing counsel, Transport Department, Assam appearing for the official respondents.

The case of the petitioner is that he was appointed as an Electrical Supervisor in the office of the respondent No. 3 by order dated 09-11-1990 and since then, he has been continuously serving in the said post. According to the petitioner he is drawing the pay scale of Foreman/ Junior Engineer in the department and therefore, he is entitled to be promoted to the post of Foreman. Alternatively, the petitioner has prayed for extending him the benefit of Modified Assam Career progression Scheme (MACPS) in lieu of promotion. When his prayer, as above, was not considered, the petitioner had submitted representation dated 11-05-2022 addressed to the Director, Inland Water Transport Department, Assam ventilating his grievance in the matter. When the representation had failed to evoke any response, the petitioner has approached this Court by filing the present writ petition.

Ms. Bora, learned standing counsel, Transport Department, Assam has obtained instruction and submits that the promotion to the post of Junior Engineer is made from the feeder cadre of Sub-Engineer Grade-I and as per the Assam Inland Water Transport

Draft Service Rule, there is no provision for promoting an Electrical Supervisor to the post of Jr. Engineer. On such ground, Ms. Bora submits that the prayer of the petitioner cannot be considered unless proper provision is made in the rules for promoting Electrical Supervisor.

On the plea of refusal to extend the benefit of MACPS to the petitioner, she has submitted that his case will be considered if the petitioner is found to be eligible under the rules.

Mr. Mazumder submits that his client would be satisfied if this writ petition is disposed of with a direction upon the respondent to consider his grievance.

Law is firmly settled that right to be considered for promotion is a fundamental right of the employees. It is also settled law that an employee is entitled to atleast one promotion during his entire service career. However, if for any reason, such as non-availability of provision in the rules, such promotion cannot be given then in that event the employee must be extended the benefit of career progression scheme by giving him the financial benefits. Therefore, this Court is of the opinion that the prayer made by the petitioner deserves proper consideration by the appropriate authority.

In view of the above and with the consent of learned counsel for both the sides, this writ petition is being disposed of at the stage of motion hearing with a direction upon the respondent No. 2 to consider the representation submitted by the petitioner in the light of the observation made hereinabove and pass reasoned order(s) therein.

The above exercise be carried out and completed as expeditiously as possible but

not later than a period of 03 months from the date of receipt of a certified copy of this order.

The respondent may also consider incorporating appropriate provision in the draft service rules so as to provide avenues of promotion to the Electrical Supervisors, if so advised.

By retaining the copy of the written instruction produced by Ms. M.D. Bora, learned standing counsel, Transport Department, Assam with the record of this case, this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant