

GAHC010224782023



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

Case No. : Review.Pet./118/2023

SATYABAN TALUKDAR
S/O LATE HEM CHANDRA TALUKDAR,
PERMANENT RESIDENT OF PURAN BARKA SATRA, PO KHUDRA, DEMOW,
UNDER RANGIA POLICE STATION, DIST KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY,GOVT. OF
ASSAM, REVENUE (DISASTER MANAGEMENT) DEPARTMENT, DISPUR,
GUWAHATI 06

2:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT
DISPUR
GUWAHATI 6

3:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
GUWAHATI 78103

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/1964/2022

SATYABAN TALUKDAR
S/O- LATE HEM CHANDRA TALUKDAR
R/O- PURAN BARKA SATRA
P.O- KHUDRA DEMOW

P.S- RANGIA
DIST- KAMRUP

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP
. BY THE COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
REVENUE (DISASTER MANAGEMENT) DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY

GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
GUWAHATI
ASSAM

Advocate for : MR P KATAKI
Advocate for : SC
FINANCE appearing for THE STATE OF ASSAM AND 2 ORS

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.11.2023

Heard Mr. P. Kataki, learned counsel for the review petitioner. Also heard Mr. J. Handique, learned standing counsel for the respondent no.1, Mr. A. Chaliha, learned standing counsel for the respondent no.2, and Mr. K.K.

Bhattacharyya, learned Govt. Advocate appearing for the respondent no.3.

2. This application for review is directed against the judgment and order dated 22.08.2023, passed by this Court in WP(C) 1964/2022.

3. The learned counsel for the petitioner has submitted that this Court had accepted the stand of the learned Govt. Advocate that there was no vacancy in the promotional post. In this regard, the learned counsel for the petitioner has referred to the affidavit-in-opposition filed by the respondent no.3 to project that the respondent no.3 had never taken a stand that there was no vacancy for the post of Senior Assistant. Hence, it is submitted that the finding of this Court that the entire exercise would be an exercise in futility was passed on incorrect premises. Accordingly, it is submitted that this is a fit and proper case for exercising review jurisdiction and to revisit the order impugned in this review petition.

4. The learned departmental counsel as well as the learned Govt. Advocate have made their submissions.

5. The Court finds that reasons are assigned in the order impugned in this review petition for rejecting the prayer made in the writ petition. Insofar as the stand of the respondent authorities that there was no vacancy available is also found to be contained in paragraph-6 of the order dated 11.12.2018 passed by this Court in WP(C) 194/2017.

6. Under such circumstances, if any error has crept in the order, it cannot be said that there was an inadvertent error and therefore, the nature of error which is urged by the learned counsel for the petitioner can only be rectified by taking appropriate steps against the judgment and order impugned in this review petition.

7. Therefore, the petitioner shall take an appropriate call in connection with the order impugned in this review petition as may be so advised. As the Court has arrived at a finding that it was not an inadvertent typographical error which has crept in the order impugned, this review petition stands closed with liberty to the petitioner to take such appropriate measures as he may be so advised.

JUDGE

Comparing Assistant