

GAHC010273832023



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

Case No. : Review.Pet./131/2023

GAUTAM BORA
S/O- LATE BHADRESWAR BORA, R/O VILL. AND P.O.- BONGALGAON, P.S.-
DERGAON, DIST.- GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPTT. OF PUBLIC HEALTH ENGINEERING, DISPUR, GUWAHATI- 781006.

2:THE CHIEF ENGINEER
DEPTT. OF PUBLIC HEALTH ENGINEERING
HENGRABARI
GUWAHATI-781036.

3:THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING
JORHAT CIRCLE
JORHAT
DIST.- JORHAT
ASSAM.

4:THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING
BOKAKHAT DIVISION
BOKAKHAT
DIST.- GOLAGHAT
ASSAM.

5:THE DEPUTY COMMISSIONER
GOLAGHAT
P.O.

P.S. AND DIST.- GOLAGHAT
ASSAM.

6:THE STATE LEVEL COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND
REP. HEREIN BY ITS CHAIRMAN CUM CHIEF SECRETARY TO THE GOVT.
OF ASSAM
DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MR. D GOGOI

Advocate for the Respondent : SC, P H E

Linked Case : WP(C)/3538/2016

GAUTAM BORA
S/O- LT. BHADRESWAR BORA
R/O VILL. and P.O. BONGALGAON DERGAON
DIST.- GOLAGHAT
ASSAM.

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REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
DEPTT. OF PUBLIC HEALTH ENGINEERING
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GHY- 6.

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6:THE STATE LEVEL COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND
REP. BY ITS CHAIRMAN
DISPUR
GHY- 6.

Advocate for : MR.R PHUKAN

Advocate for : MR.J I BORBHUIYA appearing for THE STATE OF ASSAM AND 5
ORS

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

06.12.2023

Heard Mr. D Gogoi, learned counsel for the petitioner. Also heard Mr. A Baruah, learned counsel for the PHE Department, Government of Assam and Mr. R Saloi, learned Government Advocate, Assam.

2. This review petition is against the order dated 29.05.2018 passed in WP(C)No.3538/2016 wherein in paragraph 7, it has been provided as extracted:

“In the instant case, it is apparent that no such consideration was given more so in view of the fact that the matter was directly placed before the SLC without being considered by the DLC.”

3. While deciding the writ petition no material was placed before the Court

that the claim of the petitioner was given a consideration by the DLC and accordingly, an order was passed that as the matter was directly placed before the SLC without being considered by the DLC, it be placed before the DLC concerned. But on facts, the application of the petitioner was considered by the DLC in its meeting dated 19.08.2011 and, therefore, a factual error had crept in the order dated 29.05.2018.

4. It is contended that even after due diligence, the petitioner could not produce any material to establish the fact that the claim of the petitioner was placed before the DLC.

5. Mr. A Baruah, learned counsel on the other hand raises an objection on the aspect of limitation *inasmuch as*, this review petition is filed against an order dated 29.05.2018. Even if the objection is accepted, considering the nature of the grievance raised in the review petition, if the correction sought to be made is not incorporated, the order of the Court would remain unimplementable, meaning thereby that the delay cause of action would arise in favour of the review petitioner. As it is a situation of the delay cause of action being arisen, it would be inappropriate to dismiss the review petition on the ground of delay in filing the review petition. Accordingly, the order dated 29.05.2018 stands corrected/modified to the extent that we have taken on record that the application of the petitioner was placed before the DLC in its meeting dated 19.08.2011, but, however, by retaining the other provisions in the order dated 29.05.2018 passed in WP(C)No.3538/2016.

6. Accordingly, it is now directed that the recommendation made by the DLC dated 19.08.2011 be placed before the next available SLC.

7. Review petition stands allowed subject to the correction as indicated above by retaining the other provisions of the order dated 29.05.2018 in WP(C)No.3538/2016.

JUDGE

Comparing Assistant