

GAHC040002492019



THE GAUhati HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/74/2019

SHRI BINKI TALI
S/O LIBIN TALI, VILLAGE KEAK TALI, PO/PS KAMBA, DIST. WEST SIANG ,
AP. PHONE NO.9402042719

VERSUS

THE STATE OF A.P.
THE CHIEF ENGINEER, DEPTT. OF HYDRO POWER DEVELOPMENT,
ITANAGAR. 2:THE SUPERINTENDING ENGINEER
Age: 0
Occupation :
LOWER SIANG DIBANG BASIN
PASIGHAT CIRCLE
DEPTT. OF HYDRO. POWER DEVELOPMENT EAST SIANG
AP.

3:THE EXECUTIVE ENGINEER EM
Age: 0
Occupation :
PANGIN EM DIVISION
DEPTT. OF HYDRO POWER DEVELOPMENT
EAST SIANG DIST. PO/PS PASIGHAT
AP.

4:THE EXECUTIVE ENGINEER EM
Age: 0
Occupation :
PASIGHAT DIVISION DEPTT. OF HYDRO POWER DEVELOPMENT
EAST SIANG DIST. PO/PS PASIGHAT
AP.

5:THE ASSISTANT ENGINEER EM
Age: 0

Occupation :
PASIGHAT EM SUB DIVISION
DEPTT. OF HYDRO POWER DEVELOPMENT
EAST SIANG DIST. AP.

6:SHRI TANI TATIN

Age: 0

Occupation :
S/O TAMONG TATIN
C/O THE SUPERINTENDING ENGINEER DIBANG BASIN
LOWER SIANG PASIGHAT CIRCLE
DEPTT. OF HYDRO POWER DEVELOPMENT
AP. PO/PS PASIGHAT.

7:SHRI KAMAL BORO

Age: 0

Occupation :
S/O TEM BORO
C/O THE SUPERINTENDING ENGINEER DIBANG BASIN
LOWER SIANG
PASIGHAT CIRCLE
DEPTT. OF HYDRO POWER DEVELOPMENT AP
PO/PS PASIGHAT

8:SHRI YOMI KAMGO

Age: 0

Occupation :
S/O NYUNYOM KAMGO
C/O THE SUPERINTENDING ENGINEER DIBANG BASIN
LOWER SIANG
PASIGHAT CIRCLE
PO/PS PASIGHAT
DEPTT. OF HYDRO POWER DEVELOPMENT
AP.

9:SHRI A.J SAIKIA

Age: 0

Occupation :
S/O JOGEN SAIKIA
C/O THE SUPERINTENDING ENGINEER DIBANG BASIN
LOWER SIANG
PASIGHAT CIRCLE
DEPTT. OF HYDRO POWER DEVELOPMENT
AP. PO/PS PASIGHAT.

10:SHRI DEJUM TABA

Age: 0

Occupation :

S/O TADE TABA
C/O THE SUPERINTENDING ENGINEER DIBANG BASIN
LOWER SIANG
PASIGHAT CIRCLE
PO/PS PASIGHAT
DEPARTMENT OF HYDRO POWER DEVELOPMENT
AP.

11:SMTY KAGO YAKANG
Age: 0
Occupation :
D/O LT. KAGO TAI
C/O SUPERINTENDING ENGINEER DIBANG BASIN
LOWER POWER DEVELOPMENT
PO/PS PASIGHAT
AP

Advocate for the Petitioner : MrD Kamduk, L Jilen,MR.K Eshi,MrG Bam

Advocate for the Respondent : Tambo Tamin, ,GA (AP),,Lissing Perme

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 19-12-2024

Heard Mr. D. Kamduk, learned counsel for the petitioner. Also heard Ms G. Ete, learned Additional Senior Government Advocate for the respondents No.1, 2, 3, 4, 5 and 12 and Mr. L. Perme, learned counsel for the respondents No.6, 7, 8, 9, 10 and 11.

2. The present writ petition has been instituted by the petitioner, herein, presenting a challenge to the up gradation of the service of the private respondents No.6, 7, 8 and 9 as Work Charged category employees in the year 2013 as well as the appointment effected in the case of respondents No.10 and 11 as Work Charged Khalasi employees in

the year 2015 and 2014, respectively.

3. The petitioner in the writ petition has projected that although he was in the zone of consideration for upgradation against a post in the work charged establishment from amongst the skilled casual employees under the Pasighat EM Division, Department of Hydro Power Development, the Selection Committee, in its meeting did not proceed to consider the case of the petitioner, herein, for up gradation while extending such consideration in respect of the respondents No.6, 7, 8 and 9. It is further submitted that the respondents No.10 and 11, who were not working as Casual Employees (Skilled) were also favoured with appointment orders and accordingly, the petitioner, in spite of rendering service in the department since 2001, he was discriminated against in the matter and came to be superseded by the persons admittedly who were junior to him reckoning their individuals dates of engagement.

4. The respondents by filing the affidavit has contended that the case of the petitioner was not so considered on account of the fact that he did not possess the qualifying criteria for the post of WC Khalasi and had not exhibited good and satisfactory performance during the period which was so reckoned for the purpose of up gradation of Casual Staff (Skilled) to the post in the work charge establishment. The respondents have also projected that there were adverse remarks existing against the petitioner, so given with regard to his performance by the authorities under whom he was so discharging his duties as a Casual Staff. Accordingly, it is projected in the affidavit that for the aforesaid reasons, the case of the petitioner was not found to be suitable for up gradation as a Work

Charged Employee along with the respondents No.6, 7, 8 and 9. Accordingly, it is projected by the respondents in their affidavits that the present writ petition is called to be dismissed.

5. The above position was however, disputed by Mr. D. Kamduk, learned counsel appearing for the petitioner and he has submitted that there was nothing adverse existing in his service records which would have necessitated the denial to him of the up gradation to the post of Work Charged employee. At this stage, Mr. D. Kamduk, submits that on account of the fact that the respondents No.6, 7, 8 and 9 were up graded as Work Charged Employees way back in the year 2013 and have been continuously serving in such capacity thereafter, he would not press for interference with their such appointment. However, with regard to the appointment of respondents No.10 and 11, Mr. D. Kamduk, submits that the said appointments were for limited period of time, however, they were also continued in the Work Charged establishment till date. Mr. D. Kamduk, further highlights that petitioner has been rendering his service as a Casual Skilled Labour since 2001 on a meagre salary and he having been already deprived of the scale of pay that is attached to the post in the Work Charged Establishment, submits that in the event, the respondents authorities at least even with prospective effect consider the matter of the petitioner for up gradation as a Work Charged Employee in the Work Charged Establishment, he would give up the challenge made in the present proceeding to the appointment of the private respondents as Work Charged Employees.

6. Responding to the said submission, Ms G. Ete, learned Additional

Senior Government Advocate has submitted that the respondents would be agreeable to extend a consideration to the petitioner, herein, for his up gradation to the Work Charge post with prospective effect.

7. In view of the above submissions made by the learned counsel for the parties, this Court is of the considered view that the present writ petition need not be detained any further.

8. The respondents are directed to consider the case of the petitioner for appointment against the post in the Work Charge Establishment and on such consideration being made and also noticing that the petitioner was in service of the department on casual basis since the year 2001 and during the year 2013, the petitioner's case admittedly, as reflected from the records was not considered in the manner as required, the respondent authorities, more specifically respondent No.1, i.e. the concerned Chief Engineer, Department of Hydro Power Development, Government of Arunachal Pradesh under whose overall control of the establishment wherein the petitioner is presently serving is placed, shall require the concerned authority to consider the case of the petitioner against any vacant post in the Work Charged Establishment in the Circle he is currently posted and/or in any other circle wherein such vacant post in the Work Charge Establishment, suitable for up gradation of the service of the petitioner, is available. The said exercise shall be initiated and concluded by the authorities within a period of 2 months from the date of receipt of a certified copy of this order.

9. The petitioner on his engagement as Work Charged employee shall

be authorised a scale of pay now as is now authorised to the respondents No.6, 7, 8, 9, 10 and 11.

JUDGE

Comparing Assistant