

GAHC040008672022



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

Case No. : WP(C)/256/2022

Moli Kamki and 2 Ors.
S/o Shri Remo Kamki,
Presently posted as Assistant Engineer (Electrical)
in the Grid Station Sub Division, Itanagar.
Phone No. 9863703539
Email molikamki@gmail.com

2: Nabam Gamin
Age:
Occupation :
S/o Nabam Saha
Presently posted as Assistant Engineer (Electrical)
Doimukh Electrical Sub Division Papumpare District
Arunachal Pradesh.

3: Hage Habung
Age:
Occupation :
S/o Hage Hailyang
Presently posted as Assistant Engineer (Electrical)
Grid Station Sub Division Papumpare District
Arunachal Pradesh

VERSUS

THE STATE OF AP
Represented through the Commissioner (Power),
Govt. of Arunachal Pradesh, Itanagar.

2:The Commissioner (Power)
Age: 0
Occupation :
Govt. of Arunachal Pradesh Itanagar.

3:The Under Secretary (Power)
Age: 0
Occupation :
Govt. of Arunachal Pradesh Itanagar

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : S. Tapin, Sr.GA (AP)

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 10-04-2024

Heard Mr. D. Panging, learned counsel for the petitioners and Mr. L. Perme, learned standing counsel for the Power Department representing all the respondents.

2. Considering the simple nature of prayer involved in this writ petition, the present writ petition is taken up for final disposal.

3. The grievance of the petitioners in the present petition is for a direction to the respondent authorities to prepare a seniority list of members in the cadre of Assistant Engineer (Electrical) by fixing inter-se seniority as provided under Rule 27 of the Arunachal Pradesh Power Engineering Service Rules, 1993.

4. The petitioners were appointed as Assistant Engineer (Electrical) in the Department of Power, Government of Arunachal Pradesh on 18.07.2013, pursuant to an advertisement dated 23.11.2011. It is contended that, though the service Rules, namely, the Arunachal Pradesh Power Engineering Service Rules, 1993 mandates for preparation of seniority list of the cadres in the Department, the respondent authorities are yet to prepare the seniority list particularly of cadre of the Assistant Engineer.

5. Mr. L. Perme, learned standing counsel for Power Department appearing for the respondents by referring to the affidavit-in-opposition filed on behalf of the Department submits that the issue of preparation of seniority list in respect of the Assistant Engineer in the Department is under active consideration by the authorities.

6. Rule 27 of the Arunachal Pradesh Power Engineering Service Rules, 1993 provides as follow.

“27. Seniority: The government shall prepare a list of members of each cadre in order of seniority as determined in the manner specified below:-

(1) Members of the service appointed at the initial constitution of each cadre (in case of Junior Engineer Cadre such list would be branch/category-wise of the cadre), under rule 3 of these rules, shall be ranked Inter-se in the order of their relative seniority in that grade/cadre existing prior to commencement of these rules:

Provided that if the seniority of any such officer had not been specifically determined before the commencement of these rules, it shall be determined by the government

(2) Unless otherwise provided in these rules, the seniority of persons recruited to each cadre/grade of the service after initial, constitution shall be determined in accordance with the general instructions issued by the government in the matter from time to time, keeping in view the following general principles:

(a) In case of equal length of service, older in age will rank senior to younger one.

(b) Direct recruits shall be assigned seniority from the date of appointment with due regard to their position in the merit list as obtained through the competitive examination.

(c) Promoted officials shall be given seniority from the date of their appointment if they have been selected by a regular constituted Departmental Promotion Committee under these rules and have held the appointment continuously thereafter without any break. While determining the inter-se seniority of promoted officials, the date of appointment in their respective cadre with due regard to merit shall be taken in consideration as determined by the

D.P.C at the time of recommending them for such promotion. Wherever it is found that the D.P.C while recommending their promotion, has not decided inter-se merit of officials, then the inter-se seniority of such officials shall be fixed on the basis of their placement in the lower grade/cadre.

(3) Where the strict application of these principles results in hardship, government may assign seniority in such a manner as may be considered appropriate and necessary by the government.

7. Having considered the provisions of the above Rules which mandates preparation of seniority list coupled with the categorical statement of the State respondents that the issue of preparation of the seniority list are under active consideration, I deem it appropriate to dispose of the writ petition with the following direction.

The respondent shall consider and prepare the seniority list of Assistant Engineer in the Department within a period of 3 (three) months from the date of receipt of the certified copy of this order strictly in accordance with the applicable Rule as mandated under Rule 27 of the Arunachal Pradesh Power Engineering Service Rules, 1993.

8. With the above direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant