

GAHC010008152017



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

Case No. : WP(C)/8256/2017

SUMITRA ROY CHOUDHURY
WIFE OF PROSENJIT ROY CHOUDHURY, R/O SHIVALIK PARK, LANE NO.
L8, MEHERPUR, SILCHAR, CACHAR, ASSAM.

2: ANITA SINGHA
WIFE OF SUPRAKASH DEY
R/O HOSPITAL ROAD
SILCHAR
CACHAR
PIN-788015

VERSUS

THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPTT. OF IRRIGATION, DISPUR, GUWAHATI-06.

2:THE DEPUTY SECRETARY (E)
GOVT. OF ASSAM
IRRIGATION DEPTT.
DISPUR
GUWAHATI-06.

3:THE CHIEF ENGINEER

ASSAM
IRRIGATION DEPARTMENT
GUWAHATI-03.

4:THE EXECUTIVE ENGINEER
HAILAKANDI DIVISION (IRRIGATION)
HAILAKANDI

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : DR. B AHMED (SC, IRRIGATION DEPT.)

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

16.02.2024.

1. Heard Mr. M. Sarma, learned counsel for the petitioners. Also heard Mr. N. Upadhyay, learned Standing Counsel for the Irrigation Department representing the respondents.
2. The petitioners while serving as Junior Engineer (Civil) under Irrigation Department alleging non consideration of their claim for promotion to the post of Assistant Engineer (Civil) approached this Court. It is the case of the petitioners that they have acquired the qualification of Part-A and Part-B of Associate Membership Examination, [AMICE (1)]. However, their cases were not considered on the ground of non acceptability of such qualification.
3. It is the further case of the petitioners that similarly situated persons approached this Court by filing WP(C) No. 5042/2017 in a similar background of refusal of promotion and this Court upheld the contention of the similarly situated persons under its Judgment and Order (ORAL) dated 16.11.2017. Accordingly, petitioners in WP(C) No. 5042/2017 were promoted with retrospective effect. However, the petitioners were not promoted though their cases are also covered by the determination made in Judgment and Order (ORAL) dated 16.11.2017 (supra), and being aggrieved they had also approached this Court by preferring the instant writ petition.
4. During pendency of this writ petition, the petitioners were also promoted to

the next higher post of Assistant Engineer (Civil). In that view of the matter, the basic grievance of the petitioners that has been raised in the present writ petition has already been redressed and therefore, nothing survives to be adjudicated in the present writ petition.

5. However, Mr. Sarma, learned counsel has submitted that though the petitioners have been granted promotion, however, such promotion has been granted with prospective effect not with retrospective effect from the date of their entitlement. Accordingly, the petitioners have preferred representations before the Secretary to the Government of Assam, Irrigation Department being aggrieved by such determination and such representations are still pending for such consideration. Therefore, Mr. Sarma, learned counsel submits that if this writ petition is closed, a direction may be issued to the Secretary to the Government of Assam, Irrigation Department to consider their representation and pass a speaking order in this regard.
6. Mr. N. Upadhaya, learned Standing Counsel for the Irrigation Department in his usual fairness submits that when some employee has raised their grievance, the department as a model employer shall obviously consider their cases within the parameters of extant rules and therefore, if a direction for consideration is issued, he will have no objection. However, the petitioners may be asked to file a fresh representation.
7. In view of the aforesaid consensus, this writ petition stands closed with the following directions:-
 - I. The petitioners shall file fresh representation(s) before the Secretary to the Government of Assam, Irrigation Department as regards their claim of giving retrospective effect to the promotion granted during the pendency of the writ petition.

II. Such representation be considered by the Secretary to the Government of Assam, Irrigation Department as per extant norms and pass a speaking order.

III. The Secretary to the Government of Assam, Irrigation Department shall complete the aforesaid exercise within a period of four weeks from the date of receipt of such representation.

8. It is needless to say that, in the event the petitioners are aggrieved by any of the decisions passed on their representation, they shall be at liberty to approach the appropriate forum including this Court.

9. This writ petition stands disposed of.

JUDGE

Comparing Assistant