

GAHC010022072017



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

Case No. : WP(C)/2696/2017

SMT. SABITA DAS
W/O SRI KIRAN CHANDRA BORAH VILL- BARAKHAT, CHAYGAON P.O. and
P.S. CHAYGAON DIST. KAMRUP R, PIN - 781124, ASSAM

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY ITS COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY and VETERINARY DEPARTMENT, DISPUR,
GUWHATI-6, DIST. KAMRUP M, ASSAM

2:THE DIRECTOR
ANIMAL HUSBANDRY and VETERINARY DEPARMENT
ASSAM
CHENIKUTHI
GUWAHATI - 781003
DIST. KAMRUP M
ASSAM

3:THE DEPUTY DIRECTOR
ICDP and FSC
ANIMAL HUSBANDRY and VETERINARY DEPARTMENT
ASSAM
KHANAPARA
GUWAHATI-22
DIST. KAMRUP M
ASSAM

4:THE RESERCH OFFICER R.O.
CPBP
KHANAPARA
GUWAHATI-22
DIST. KAMRUP M
ASSAM

5:THE MANAGER
GOVT. LIVE STOCK FARM ANIMAL HUSBANDRY and VETERINARY
DEPARTMENT
ASSAM
KHANAPARA
GUWHATI -22
DIST. KAMRUP M
ASSAM

6:THE COMMISSIONER and SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6
DIST. KAMRUP M
ASSAM

7:THE UNDER SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-06
DIST. KAMRUP M
ASSAM

8:THE TREASURY OFFICER
DISPUR TREASURY
P.O. DISPUR
PIN - 781006
DIST. KAMRUP M
ASSAM

Advocate for the Petitioner : MR.D BORAH, MR.R DOWARAH

Advocate for the Respondent : SC, FINANCE, SC, A.H and V. DEPT., MS. M.M. KATAKI,GA,
ASSAM

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

10.09.2024

1. Heard Mr. D. Borah, learned counsel for the petitioner and Ms. M.M. Kataki, learned Standing Counsel for the A.H.& V Department.

2. By filing this writ petition, the petitioner has challenged the office order dated 05.01.2017, by which she has been reverted back to her original Grade-IV post after having been promoted to the Grade-III post, vide order dated 06.10.2016.

3. The learned counsel for the petitioner has relied upon the Office Memorandum dated 12.03.2004 issued by the Commissioner & Secretary to the Government of Assam, Finance Department, wherein instructions have been circulated that for promotion to non-gazetted post of the State Government, promotion cases can be cleared by the Appointing Authority, as per the provisions of the Service Rules. The learned counsel therefore submits that in view of the said Office Memorandum, the office order dated 05.01.2017 stating that the approval of the Government has not been taken by the Directorate prior to promoting the petitioner cannot be sustained and therefore should be set aside. The learned counsel further submits that the case of the petitioner at any rate is squarely covered by the decision rendered by a Coordinate Bench of this Court, vide common order dated 30.05.2019 in WP(C) 774/2017 (Bimal Chandra Nath & 10 Others vs. The State of Assam & 3 Others), WP(C) 2879/2017 and WP(C) 2872/2017. He submits that the same was also relied upon in a subsequent case, vide order dated 07.12.2022 passed in WP(C) 7838/2022 (Mrs. Mira Das & 8 Others vs. The State of Assam & 4 Others). The learned counsel thus submits that similar direction may be passed in the instant case as well.

4. Ms. M.M. Kataki, learned Standing Counsel, A.H. & V Department on the

other hand has stressed on the fact that as per the impugned office order dated 05.01.2017, promotion has been made without taking into consideration the prevailing rules, regulations and procedures with up-to-date vetted roster register, yearly vacancy position, final up-to-date gradation list, annual confidential report, reservation policy etc. Therefore, it became necessary to issue the impugned order for reverting the petitioner back into the Grade-IV post. The learned counsel otherwise on instructions submits that the Office Memorandum dated 12.03.2004 is in force.

5. Upon hearing the learned counsels for the parties and upon perusal of the Office Memorandum dated 12.03.2004 and the order passed in other similar cases as relied upon by the petitioner, it is seen that the case of the petitioner is a squarely covered case. Under the circumstance, the impugned office order dated 05.01.2017 in so far as the petitioner is concerned, stands interfered with. The consequential benefit to be given to the petitioner shall be decided by the respondent authority concerned in accordance with law.

6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant