

GAHC010032392024



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

Case No. : WP(C)/794/2024

DIBYAJYOTI BORAH AND 6 ORS.
S/O- LATE UPEN BORAH, R/O- CHARIGAON BHARALI CHUK, DIST.
JORHAT, ASSAM, PIN- 785010.

2: HEMEN KAKATI
S/O- LATE HARI CHARAN KAKATI
R/O- VILL.- JANIA
DIST. BARPETA
ASSAM
PI- 781314.

3: BABUL KURMI
S/O- RAGHUNATH KURMI
R/O- VILL- TIPOMIA NATUN MATI
DIST. JORHAT
ASSAM
PIN- 785630.

4: RAJENDRA SINGHA
S/O- LATE RABINDRA SINGHA
R/O- HOUSE NO. 69
UDAY NAGAR
KAINADHARA
KHANAPARA
DIST. KAMRUP(M)
ASSAM
PIN- 781022.

5: MIRAJUL HOQUE CHOUDHURY
S/O- LATE SAMSUL HOQUE
R/O- VILL.- LACHIT ROAD
HOWLY
DIST. BARPETA
ASSAM
PIN- 781316.

6: NAYANMANI DAS
S/O- LATE HARAKANTA DAS
R/O- HOUSE NO. 13, WARD NO. 12
FATASHIL (KAILASHPUR)
DIST- KAMRUP(M)
ASSAM, PIN- 781009.

7: MRINAL KUMAR BORAH
S/O- LATE MONI RAM BORAH
R/O- VILL.- CHAKARIGAON
DIST. NAGAON
ASSAM, PIN-782003

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ENVIRONMENT AND FOREST DEPARTMENT,
DISPUR, GHY-781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE, ASSAM
PANJABARI, GHY-781037

Advocate for the Petitioner : MR. M P SARMA
Advocate for the Respondent : SC, FOREST

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

:: O R D E R ::

16-02-2024

Heard Mr. A. Chakraborty, learned counsel for the petitioners. Also heard Mr. D. Gogoi, learned standing counsel Forest Department appearing on behalf of respondents.

The petitioners, who are serving as Forest Guards, were promoted to the rank of Forest Guard-I by an order dated 29-06-2021. Thereafter, their promotion

orders were cancelled by a speaking order dated 02-07-2022, issued by the Principal Chief Conservator of Forest and Head of Forest, Assam.

Being aggrieved with the speaking order dated 02-07-2022, the petitioners preferred a writ petition, which was registered as WP(C) No. 5299/2022. The said writ petition was disposed of by order dated 01-02-2024. The relevant portion of the order reads as under:

“9. Consequently, the impugned order dated 02.07.2022 stands set aside. The order dated 29.06.2021 stands restored to its original file. The order dated 03.07.2021 keeping the order of promotion in abeyance would also stand interfered with. All consequential benefits be given to the petitioners accordingly.

10. However, before parting with the record, it is clarified that in the event the authorities are of the view that the writ petitioners were not eligible or entitled to be promoted to the next higher rank of Forester Grade-I and the order of promotion is required to be modified/revoked for any good reason, the same shall be done only after serving prior individual notices upon each of the petitioners and after giving them an opportunity of being heard in the matter.

With the above observation, the Writ Petition stands disposed of.”

Thereafter, the Principal Chief Conservator of Forest & Head of Forest Force (PCCF & HOFF), Assam issued separate show cause notices, all dated 12-02-2024 to the petitioners to give a written explanation as to why they should be considered as eligible for promotion to the higher rank of Forester Grade-I as per Rule 6(1)(a)(i), 6(1)(b)(ii) and 6(2) of the Assam Junior Forest Service Rules, 2005, within a period of five days from the date of issuance of the notice.

Being aggrieved with the notices, all dated 12-02-2024, the petitioners are before this Court by way of present writ petition.

This Court has considered the order dated 01-02-2024, passed in WP(C) No.

5299/2-22, whereby liberty was granted to the respondents to modify/revoke the promotion orders of the petitioners to the rank of Forest Guard-I after giving individual notice. Therefore, this Court does not see any infirmity in the notices dated 12-02-2024, which were issued to the petitioners.

In fact, the petitioners should reply to the notice and, thereafter, if any adverse order is passed then the cause of action would arise.

This Court does not see any reason to interfere with the notices dated 12-02-2024. Accordingly, this writ petition is dismissed. However, considering the fact that the petitioners have filed the present writ petition, the period of filing reply to the Notice dated 12-02-2024 is extended up to 21-02-2024.

JUDGE

Comparing Assistant