

GAHC010081852019



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

Case No. : WP(C)/2592/2019

SANTOSH KVK YADAV
S/O. SRI VIJAY KUMAR YADAV, R/O. THANAPARA, W.NO.10. KOKRAJHAR
TOWN, P.O. AND P.S. KOKRAJHAR, DIST. KOKRAJHAR.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY SECRETARY TO THE GOVT. OF ASSAM, JUDICIAL DEPTT., DISPUR,
GUWAHATI-06.

2:THE REGISTRAR
GAUHATI HIGH COURT
GAUHATI-01.

3:THE REGISTRAR ADMINISTRATION CUM IN-CHARGE RECRUITMENT
CELL
GAUHATI HIGH COURT
GAUHATI-01.

4:THE CHIEF JUDICIAL MAGISTRATE
KOKRAJHAR
KOKRAJHAR
ASSAM.

5:THE BTC
REPRESENT BY PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM.

6:DIPUL BARO
LDA

KOKRAJHAR
CJM

Advocate for the Petitioner : MR. B P BORAH

Advocate for the Respondent : SC, GHC

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 06-03-2024

Heard Mr. B.P. Borah, learned counsel for the petitioner; Mr. G. Baishya, learned Standing Counsel, Gauhati High Court for the respondent nos. 2 – 4; and Mr. N. Barman, learned counsel for the respondent no. 6.

2. Both the petitioner and the respondent no. 6 at the time of institution of the writ petition, were serving in the establishment of the Chief Judicial Magistrate, Kokrajhar [the respondent no. 4] as Lower Division Assistants [LDAs].

3. The appointments of the petitioner and the respondent no. 4 to the post of LDA were made pursuant to a select list published vide a Notification dated 10.10.2013. In the said select list, the name of the petitioner figured at serial no. 58 whereas the name of the respondent no. 6 figured at serial no. 105. The petitioner belongs to OBC category and the respondent no. 6 belongs to the Scheduled Tribe [Plains] category. The contention of the petitioner is to the effect that as per the Notification dated 10.10.2013, the appointments would be made in order of merit. Because of certain inadvertent mistake, the name of the petitioner in the on-line application was mentioned as 'Santosj KVK Yadav'

instead of 'Santosh KVK Yadav'. Upon publication of the select list, the petitioner joined in the post of LDA on 24.03.2014 whereas the respondent no. 6 joined in the post of LDA on 21.03.2014. The appointment orders in favour of the petitioner and the respondent no. 6 were issued on 15.03.2014 with the condition that one had to join within a period of 15 days therefrom.

4. According to the petitioner, the cause of action arose to prefer the writ petition when in the provisional gradation list, the name of the petitioner figured below the respondent no. 6. It has been contended in the writ petition that as the petitioner had joined within a period of 15 days from the order of appointment dated 15.03.2014, his position in the gradation list ought to have been at a higher position than the respondent no. 6.

5. In the affidavit-in-opposition filed by the respondent no. 2, 3 & 4, it has been stated that the challenge that had been made by the petitioner in this writ petition was in respect of a draft gradation list dated 27.12.2018, which was not finalized at the time of filing the writ petition. The respondents have contended that the petitioner had preferred the writ petition without waiting for publication of the final gradation list. It has been contended that after consideration of the objections as regards the draft gradation list, the final gradation list was published on 24.01.2020. In the said final gradation list, the petitioner has been placed at serial no. 11 and the respondent no. 6 has been placed on serial no. 13, meaning thereby, the petitioner has been placed at a position higher than the respondent no. 6. It has, thus, been contended that the grievance of the petitioner raised in this writ petition has already been redressed with publication of the final gradation list on 24.01.2020 and as such, the petitioner has no cause of action to continue with the writ petition. It is further stated that the

petitioner had been temporarily promoted to the Upper Division Assistant [UDA] by an office Order dated 11.12.2020 and subsequently, the respondent no. 6 was promoted to the post of UDA on 24.02.2022.

6. Mr. Bora, learned counsel for the petitioner has agreed to the stand taken by the respondent nos. 2 – 4 as regards the inter-se position of the petitioner vis-à-vis the respondent no. 6 in the final gradation list dated 24.01.2020. He has also admitted the fact regarding promotion and has fairly submitted that the writ petition can be closed.

7. Mr. Barman, learned counsel for the respondent no. 6 has admitted regarding the publication of the final gradation list dated 24.01.2020 and subsequent promotion.

8. In view of the submissions made by the learned counsel for the parties in the afore-stated manner, this Court is of the considered view that with the publication of the final gradation list on 24.01.2020, there is no cause of action surviving in the present writ petition for the petitioner to continue with the writ petition and accordingly, the writ petition stands closed.

JUDGE

Comparing Assistant