

GAHC010089422023



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

Case No. : Cont.Cas(C)/266/2023

BISHNU DEO ROY
S/O- LATE RAM BIRAJEE ROY,
R/O- BIRKUCHI,
P.O.- NARENGI, P.O.-NARENGI,
GUWAHATI-20, KAMRUP(M), ASSAM.

VERSUS

RAKESH KUMAR, I.A.S. AND 3 ORS
THE COMMISSIONER AND SECRETARY,
GOVERNMENT OF ASSAM,
EXCISE DEPARTMENT, DISPUR,
GUWAHATI- 781006.

2:KAMAL KUMAR BAISHYA
ACS
THE SECRETARY OF EXCISE
GOVERNMENT OF ASSAM
EXCISE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:RAKESH AGARWAL
I.A.S.
THE COMMISSIONER OF EXCISE
HOUSEFED COMPLEX
DISPUR
GUWAHATI- 781006
ASSAM.

4:SANJIB KUMAR MEDHI
A.C.S.
THE JOINT COMMISSIONER OF EXCISE (EIB)

HOUSEFED COMPLEX
DISPUR
GUWAHATI- 781006
ASSAM

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : MR. P N GOSWAMI (r-3,4)

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

20.02.2024

(V. Bishnoi, CJ)

This Contempt Petition is filed by the petitioner alleging that the respondents have not complied with the directions given by this Court in WP(C) 2395/2011, decided on 01.12.2015 and later on affirmed by the Division Bench of this Court in WA No. 191/2017 vide order dated 07.11.2022.

In response to the Contempt Petition, the respondents have filed counter wherein it is contended that the order dated 01.12.2015 passed by the learned Single Judge in WP(C) 2395/2011 has already been complied with and pursuant to the order of the learned Single Judge, a Common Gradation List was prepared. It is further contended that the petitioner's name appeared at Sl. No. 3 in the said gradation list. However, after the promotion of the petitioner Shri Bishnu Deo Roy on 22.11.2023 as Senior Assistant, no vacancy arose in the cadre of Superintendent till his retirement and the petitioner had also not completed 7 years of service as Senior Assistant for being considered for promotion, which is a condition laid down in the Assam Directorate (Ministerial) Service Rules, 1973 and, therefore, the petitioner was not even eligible for promotion.

Learned counsel for the petitioner has contended that the order passed by the

respondent authority on 13.06.2023 denying promotion to the petitioner is illegal and not in accordance with law.

Having heard the learned counsel for the parties, we are of the view that the learned Single Judge, vide order dated 01.12.2015, directed the respondents to treat the Ministerial staff serving in the offices of Chemical Examiner (Excise) and Joint Commissioner of Excise as part of the ministerial staff of the establishment of Commissioner of Excise and further directed to prepare a cadre wise common gradation list of the ministerial staff. Having gone through the order dated 13.06.2023, we are of the view that substantial compliance of the order dated 01.12.2015, passed by the learned Single Judge in WP(C) 2395/2011, has been done.

In such circumstances, no further order is required to be passed in this Contempt Petition. The same is therefore dismissed. Notices discharged.

However, if the petitioner is aggrieved by the order dated 13.06.2023 passed by the respondent authority, he is free to avail appropriate remedy in accordance with law to challenge the said decision of the respondents.

JUDGE

CHIEF JUSTICE

Comparing Assistant