

GAHC010154952017



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

Case No. : WP(C)/8023/2017

HARENDRA NATH RAJBANGSHI and ANR.
S/O. LATE GAJEN RAJBANGSHI, VILLAGE- GAMARIMURI, P.O.
GAMARIMURI, P.S.- BELSAR, DISTRICT- NALBARI, ASSAM, PIN-781306.

2: RAJIB MAHANTA

S/O. LATE JAGESWAR MAHANTA
VILLAGE- RATANPUR
P.O. BARBANG
DISTRICT- BARPETA
ASSAM
PIN-781325

VERSUS

THE STATE OF ASSAM and 4 ORS.
REPRESENTED BY THE COMMISSIONER and SECRETARY TO THE
GOVERNMENT OF ASSAM, IRRIGATION DEPARTMENT, DISPUR,
GUWAHATI-781006.

2:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT

CHANDMARI
GUWAHATI-3.

3:THE EXECUTIVE ENGINEER
GUWAHATI WEST DIVISION
IRRIGATION

GUWAHATI-8.

4:THE ASSISTANT ENGINEER
CHAYGAON SUB-DIVISION IRRIGATION

CHAYGAON
P.O.- CHAYGAON
DISTRICT- KAMRUP
PIN-781124.

5:THE ASSTITANT ENGINEER
SINGIMARI SUB-DIVISION IRRIGARION

SINGIMARI
P.O. PALASHBARI
DISTRICT- KAMRUP
PIN-781128

Advocate for the Petitioner : MS.B TALUKDAR, MR.M BHAGABATI,MSG BORA

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

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 23-10-2024

Heard Mr. M. Bhagawati, learned counsel for the petitioners. Also heard Mr. N. Upadhyay, learned Standing counsel, Irrigation Department appearing for all the respondents.

2. By filing the writ petition, the petitioners have prayed for a direction to the respondent authorities to consider the case of both the petitioners for promotion from Grade-IV to Grade-III posts.
3. It is stated at the Bar that during the pendency of the present writ petition, the grievance of the petitioner No.1 for promotion to the Grade-III post has been redressed. However, the case of the petitioner No.2 is yet to be considered.
4. During the course of hearing, Mr. N. Upadhyay, learned Standing counsel, Irrigation Department has placed on record the communication dated 22.10.2024, whereby it is clearly stated that the petitioner No.2 Shri Rajib Mahanta who is working as Helper/Grade-IV, has applied for appointment to the post of Section Assistant. However, as per the prevailing government norms, the petitioner No.2 can be promoted to the post of Grade-III instead of Section Assistant subject to the approval of the selection committee and the promotion can be imitated after approval from the competent authority.
5. The appointment on promotion of the petitioners is regulated by the Assam Irrigation

Establishment (Technical) Service Rules, 1990 (in short, 'Rules of 1990'). Rule 8(1) of the Rules of 1990, provides that subject to the suitability as may be decided by the Selection Board and by the Appointing Authority and also subject to possessing such qualification as may be prescribed by the Government from time to time, a member shall be eligible for promotion to the next higher grade i.e. from the post of Helper/Handiman may be promoted to the post of Assistant Mechanic/Assistant Turner/Assistant Electrician/Assistant Fitter/Assistant Welder/Assistant Blacksmith/Assistant Painter/Assistant Pump Operator (Electrical)/Assistant Carpenter etc.

6. Having considered the submissions made by the learned counsel for both the parties and also taking note of the instruction provided to the learned Standing Counsel, I am of the view that no determination is required in the present writ petition as the respondent authorities have clearly stated that the petitioner No.2 who is serving as Helper/Grade-IV is entitled to be promoted to the post of i)Assistant Blacksmith ii)Assistant Fitter, iii)Assistant Turner, iv)Assistant Welder in terms of the applicable Rules of 1990 and the same would be initiated after the approval from the competent authority.

7. Having considered above, the present writ petition is disposed of with a direction to the respondent authorities to consider the case of the petitioner No.2 Shri Rajib Mahanta, strictly in terms of the applicable Rules of 1990.

8. Writ petition stands disposed of.

JUDGE

Comparing Assistant