

GAHC010170522021



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

Case No. : WP(C)/5582/2021

MINUARA BEGUM
W/O LATE ABDUL KARIM
R/O BORTHAKUR MILL ROAD,
P.O. ULUBARI
P.S. PALTAN BAZAR, GUWAHATI-781007,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
TO BE REP. BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE
GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT

(BUILDING DIVISION)
CHANDMARI
GUWAHATI-3.

3:THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPARTMENT
GUWAHATI BUILDING DIVISION NO. II
KAMRUP (M)
CHANDMARI
GUWAHATI-3

Advocate for the Petitioner : MS RUKMINI BARUA, MS PADMINI BARUA

Advocate for the Respondent : SC, PWD,

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

06.09.2024

- 1.** Heard Ms. R. Barua, learned counsel for the petitioner and Mr. R. Dhar, learned Standing Counsel, PWD for all the respondents.
- 2.** Having regard to the nature of grievance projected by the petitioner, the writ petition is taken up for disposal at this stage with the consent of the learned counsels for the parties.
- 3.** The case of the petitioner is that she was appointed as Chowkidar under the establishment of the respondent no.3 on 07.06.2004 and that having rendered more than 17 years of service at the time of filing the writ petition in the year 2021, the respondents without considering her case for promotion to the two vacant Grade-III posts under the same establishment has approached this Court through the instant writ petition.
- 4.** This Court while issuing Notice of Motion had directed that one of the Grade-III post should be kept vacant till the next returnable date.
- 5.** The respondents have filed their counter affidavit and it is their stand that the minimum educational qualification required in order to be considered for promotion to the Grade-III post is a Graduate/Bachelor Degree from a University recognized by the State Government and the petitioner having only

the qualification of HSLC is not eligible to be considered to the Grade-III post.

6. Ms. R. Barua, learned counsel for the petitioner submits that at the time of filing the writ petition, the petitioner was under the impression that the requisite qualification required for the Grade-III post was HSLC and it is on that premise that she had filed the writ petition. She however submits that as held by the Apex Court in catena of decisions that there should be avenues created for employees to progress in their service career. That the reasonable promotional opportunities should be made available in every wing of public service, so as to generate efficiency in service and to foster appropriate attitude to grow for achieving excellence in service. In the present case, the petitioner has been stagnating in the same posts ever since her appointment and therefore, the respondent authorities ought to consider her case for promotion.

7. Mr. R. Dhar, learned Standing Counsel, PWD, on the other hand submits that without the minimum qualification, the petitioner cannot make a claim for promotion to the next higher post of Grade-III and the petitioner would be eligible to avail for the MACP Scheme, which is implemented by the State Government.

8. The learned counsel for the petitioner however submits that as far as the petitioner is concerned, the said Scheme has not been extended to the petitioner.

9. Upon considering the materials available on record and the submissions made by the learned counsels for the rival parties, it appears that no direction can be given to the respondents to consider the petitioner against the Grade-III

post sought to be filled up in the department, in view of the fact that she does not possess the minimum qualification. However, having regard to the fact that the MACP Scheme is being implemented by the State Government for those employees who have no promotional avenues, the respondents are directed to grant the said benefit to the petitioner as well, if not already granted as per the Scheme and without delay.

10. With the above observations and directions the writ petition stands disposed of.

JUDGE

Comparing Assistant