

GAHC010173212016



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

Case No. : WP(C)/5169/2016

GOBIN CH. DASTIDAR and 2 ORS.
S/O- LT. TILAK MOHAN DASTIDAR, R/O- QUARTER NO. VIII M 15/1,
DISPUR SUPERMARKET QUARTER COMPLEX, DISPUR, GHY- 6.

2: SMT. GEETA KUNDU CHAKRABORTY
D/O. BEPIN CHAKRABORTY
R/O. NIRMALAYA
HOUSE NO. 42
MADHAVDEVPUR ROAD
ULUBARI
P.O. REHABARI
GUWAHATI
PIN. 781008.

3: SRI HIRANYA KUMAR GAYAN
S/O. LT. HARANATH GAYAN
R/O. GANAPATI ENCLAVE
NEAR DPI
KAHILIPARA
GUWAHATI-781019

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GHY- 6.

2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM
WELFARE OF PLAINS and BACKWARD CLASSES DEPARTMENT
DISPUR
GUWAHATI-781006.

3: THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
SECRETARIAT ADMINISTRATION DEPARTMENT

DISPUR
GUWAHATI-6.

4:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PERSONNELB DEPARTMENT
DISPUR
GUWAHATI-6.

5:MUKUT CHANDRA MALAKAR
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY
ASSAM HUMAN RIGHTS COMMISSION
BHANGAGARH
GUWAHATI
PIN. 781005.

6:MORAMI PAYENG
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY
URBAN DEVELOPMENT DEPARTMENT
DISPUR
GUWAHTI-6.

7:BIPASA KHERKATARY
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

8:BIBHA PEGU MEDOK
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY
COOPERATION DEPARTMENT
DISPUR
GUWAHATI-6.

9:DIPEN CHANDRA SAIKIA
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY. GENERAL
ADMINISTRATION DEPARTMENT
GUWAHATI-6.

10:GUNA RAM INGTY
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY. ENVIRONMENT AND

FOREST DEPARTMENT
DISPUR
GUWAHATI-6.

11:NABIN CHANDRA INGTY
SUPERINTENDENT
PRESENTLY POSTED AS UNDER SECRETARY. AGRICULTURE
DEPARTMENT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR.M K CHOUDHURY

Advocate for the Respondent : MR.G Y KHANR-7,8,9and11

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 13.06.2024

Heard Mr. M. Sarma, learned counsel for the petitioners. Also heard Mr. J. Ahmed, learned counsel for the respondent nos.5 to 11. None appears on call for the other respondents.

2. The case of the petitioners is that they are serving in the cadre of Superintendent. The petitioners are aggrieved by the promotion order dated 12.08.2016, whereby persons who were junior to them in service were allowed to supersede them to the next higher post of Under Secretary to the Govt. of Assam.

3. The case of the petitioners is that the said benefit has accorded to the persons who were below to them in the gradation list because of the OM dated 03.08.2016. Accordingly, the case of the petitioners is that the private respondent nos.5 to 11 have been wrongly provided reservation in promotion

and the same was done without carrying out any exercise for ascertaining the backwardness, representation inadequacy and impact on administrative efficiency. Accordingly, the petitioners have assailed the said OM dated 03.08.2016 and have also prayed for quashing of the promotion order dated 12.08.2016, by which the private respondent nos.5 to 11 were promoted.

4. At this stage, the learned counsel representing the respondent nos.5 to 11 has submitted that the said OM dated 03.08.2016 was assailed in a series of writ petitions and this Court by order dated 06.06.2022, passed in WP(C) 5026/2016, had upheld the legality of the said OM dated 03.08.2016. It is submitted that the said order dated 06.06.2022 was assailed by way of an intra-Court appeal and the Division Bench of this Court by order dated 10.08.2023, passed in WA 46/2023, which was heard along with WA 239/2022 and WA 162/2023 had upheld the order passed by the learned Single Judge dated 06.06.2022. Accordingly, it is submitted that in view of the judgment dated 10.08.2023, passed by the Division Bench of this Court, the issue regarding legality of the OM dated 03.08.2016 cannot be revisited.

5. Having perused the said order dated 10.08.2023, passed by the Division Bench of this Court in WA 46/2023, which was heard along with WA 239/2022 and WA 162/2023, as reported in *2023 (4) GLT 864*, the Court is of the considered opinion that the issue relating to the challenge of OM dated 03.08.2016, has attained finality. The Division Bench of this Court had further observed to the effect that in the meanwhile, by the OM dated 18.01.2023, the previous consequential seniority has been withdrawn and the catch up principle has been introduced, and this Court, without expressing any opinion on the said OM, had disposed of the writ appeal.

6. In view of above, in the opinion of the Court, the subject matter of the present writ petition has become infructuous.

7. Accordingly, this writ petition stands closed having been rendered infructuous.

JUDGE

Comparing Assistant