

GAHC010184402014



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

Case No. : WP(C)/771/2014

JITENDRA KALITA
S/O- LT. BALIRAM KALITA, R/O- PATSALA WARD NO. 3, BYE LANE
HOWLIROAD, P.O.- PATSALA, P.S.- PATACHARKUCHI, DIST.- BARPETA.

VERSUS

1: THE STATE OF ASSAM AND 5 ORS REP. BY THE COMMISSIONER AND
SECY. TO THE HEALTH AND FAMILY WELFARE DEPTT., GOVT. OF ASSAM,
DISPUR, GHY- 6, DIST.- KAMRUP M.

2:THE UNDER SECY. TO THE GOVT. OF ASSAM HEALTH and FAMILY
WELFARE DEPTT. GOVT. OF ASSAM DISPUR GHY- 6 DIST.- KAMRUP M.

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM HENGRABARI GHY- 36 DIST.- KAMRUP M.

4:THE CHIEF MEDICAL and HEALTH OFFICER, DIST.- BARPETA ASSAM.

5:THE INSPECTOR OF DRUG, DIST.- BARPETA ASSAM.

6:THE JOINT DIRECTOR OF HEALTH SERVICES, DIST.- BARPETA ASSAM

Advocate for the Petitioner : MR.J ROY

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 21-03-2024

Heard Mr. S. Borthakur, learned counsel for the petitioner. Also heard
Mr. D.P. Borah, learned standing counsel, Health Department, representing all

the respondents.

The petitioner herein has raised a grievance with regard to the denial to him of his due promotion to the cadre of Upper Division Assistant (UDA), now Senior Assistant, w.e.f. 08.01.2008. The petitioner herein was appointed as a LDA vide an order dated 04.01.1986 on compassionate grounds. The petitioner continued to serve in such capacity and on coming to learn that persons appointed against the post of LDA much after the date of his such appointment were considered and promoted to the post of UDA way back in the year 2008, made representation before the authorities concerned praying for similar benefit. Thereafter, the petitioner came to be transferred from the Office of the Inspector of Drugs, Barpeta to the Office of the District Medical Officer, Barpeta and accordingly, he instituted WP(C) No.2318/2013 before this Court in this connection.

This Court, vide an order dated 06.05.2013, directed the Director of Health Services, Assam to examine the grievance of the petitioner as raised by him in his representation dated 22.03.2013 and to pass an appropriate order in the matter.

It is seen that in pursuance of the direction passed by this Court, vide order dated 29.06.2013, the petitioner was promoted to the cadre of UDA (now Senior Assistant). The petitioner thereafter prayed before the authorities for effecting his such promotion to the cadre of UDA with retrospective effect, i.e. 08.01.2008 when his juniors were so promoted to the said cadre. The same not having been considered, the present proceedings have been initiated.

At the outset, it is to be noted that the promotions as stated to have been effected in the case of his juniors were so effected way back in the year 2008. The petitioner even in the present proceedings instituted after a long

lapse of time, has not assailed the promotions in the case of his purported juniors way back in the year 2008. The prayer of the petitioner is for granting to him retrospective effect to the promotion as granted to him in the year 2013 to the cadre of UDA w.e.f. 2008, i.e. the date when his juniors were so promoted. It is to be noted that none of the said juniors, who were reportedly promoted in the year 2008, have been arrayed as party respondents. There being no challenge to the promotions being effected in the case of his purported juniors and the said juniors not having been arrayed as party respondents in the present proceedings, this Court is not in a position to entertain such claim of the petitioner inasmuch as entertaining any such claim of the petitioner would lead to interference with the promotion made of any one of his such juniors in the year 2008, which without hearing them is not permissible. Further, the promotion of the juniors of the petitioner having been effected in the year 2008 and the petitioner having approached this Court in the year 2013 by instituting WP(C) No.2318/2013, even if a challenge is presented in the said writ petition to the promotions of his juniors, the same after such long lapse of time, would not be liable to be entertained.

In view of the conclusions as reached hereinabove, the contentions raised by the petitioner in the writ petition are found to be devoid of any merit and accordingly, the writ petition stands dismissed. However, there would be no order as to cost.

JUDGE