

GAHC010184812023



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

Case No. : WP(C)/4831/2023

RANJIT KR. MAHANTA
S/O- LATE HEM CHANDRA MAHANTA, RESIDENT OF HOUSE NO.37,
ADARSHAPUR, BYE LANE-4, KAHILIPARA, GUWAHATI- 781019, DIST.-
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, AGRICULTURE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE ADDITIONAL CHIEF SECRETARY AND APC
AGRICULTURE DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DIRECTOR
AGRICULTURE DEPARTMENT
KHANAPARA
GUWAHATI-2

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : SC, AGRI. DEPARTMENT

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 23/01/2024

Heard Mr. D. Baruah, learned counsel for the writ petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel, Agriculture Department, Assam, appearing for the official respondents.

The writ petitioner herein is working as a Junior Engineer (JE) and posted in the office of the Assistant Executive Engineer, Agriculture Department, Guhopur. During the course of his service, the writ petitioner became eligible for being considered for promotion to the next higher rank of Assistant Engineer and accordingly, his candidature was also considered by the Departmental Promotion Committee (DPC)/Selection Board in its meeting held on 21/10/2021 under the Chairmanship of the Additional Chief Secretary & APC, Agriculture Department. However, the recommendation of the DPC with regard to the petitioner herein along with three other candidates, had been kept in "sealed cover". As per the reflection made in the minutes of the Selection Committee meeting held on 21/10/2021, the same was done in view of the prosecution sanction accorded vide order dated 21/09/2012 for prosecution of the petitioner on graft charges and also due to the pendency of writ petition being WP(C) 7097/2013 before this Court wherein, the penalty of stoppage of 3 (three) annual increments imposed upon the petitioner was put under challenge.

Mr. B. Choudhury, learned Standing Counsel, Agriculture Department, Assam, has brought to the notice of this Court the fact that a review DPC was held on 22/08/2023 wherein, the case of the petitioner was again considered but the sealed cover proceeding was not opened, awaiting final outcome of the prosecution sanction order dated 21/09/2012.

From the above, it is apparent that the reason for not opening the sealed cover with regard to the recommendation of the DPC pertaining to the petitioner, were on account of pendency of WP(C) 7097/2013 and also the prosecution sanction accorded by the authority vide order dated 21/09/2012. However, from the materials available on record, I find that by order dated 25/07/2023 passed in WP(C) 7097/2013, the writ petition was dismissed for non-prosecution and the petitioner has not filed any application for restoration of the same. As such, WP(C) No. 7097/2013 is not pending as on date. Even otherwise, in the absence of any specific order passed by this Court, there was no justifiable ground for the authorities to keep the recommendation made by the DPC in favour of the petitioner under "sealed cover".

In so far as the prosecution sanction dated 21/09/2012 is concerned, Mr. Baruah has produced a copy of the judgement and order dated 26/07/2018 passed by the Court of learned Special Judge, Assam, Guwahati, in connection with Special Case No. 43/2012 arising out of ACB P.S. Case No. 17/2001 registered under sections 120B/409 IPC read sections 13(1)(c)(d)/13(2) of the Prevention of

Corruption Act, a perusal of which goes to show that the writ petitioner herein, along with some other accused persons, had been acquitted in respect of the charges framed against them. If that be so, it is apparent that even the prosecution sanction granted vide order dated 21/09/2012 stood discharged. Under the circumstances, there is no justifiable ground for the departmental authorities to keep the recommendation of the DPC under sealed cover thus, causing serious prejudice to the interest of the petitioner.

Mr. B. Choudhury, learned Standing Counsel, Agriculture Department, Assam, submits that if a direction is issued by this Court, the sealed cover proceeding would be opened and thereafter, appropriate steps, as may be permissible under the law, would be taken in the matter.

In view of the above, this writ petition is being disposed of by providing that the "sealed cover" DPC proceeding in respect of the petitioner be opened and thereafter, the recommendation of the DPC be acted upon with promptitude.

The exercise be completed as expeditiously as possible but not later than 45 (forty five) days from the date of receipt of a certified copy of this order.

The writ petition stands disposed of accordingly.

JUDGE

sukhamay

Comparing Assistant