

GAHC010192382013



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

Case No. : WP(C)/2108/2013

NO 0369268/CT/NO SHRI MAHENDER SINGH
S/O S. SANDURA SINGH, PERMANENT R/O 18-19A BHUP COLONY SRI
GANGA NAGAR, P.O. SRI GANGA NAGAR, RAJASTHAN -335001,
PRESENTLY RESIDING AND POSTED AT 15TH BATTALION, SSB,
BONGAIGAON, P.O. BONGAIGAON, ASSAM, PIN-783380

VERSUS

1: THE UNION OF INDIA and 6 ORS REPRESENTED BY THE HOME
SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-
110001

2: THE SASHASTRA SEEMA BAL SSB REPRESENTED BY ITS DIRECTOR
GENERAL EAST BLOCK-V R.K. PURAM NEW DELHI-110066

3: THE INSPECTOR GENERAL FRONTIER HEADQUARTERS
SSB NIKITHA COMPLEX G.S. ROAD KHANAPARA GHY-22

4: THE DY. INSPECTOR GENERAL MEDICAL COMPOSITE HOSPITAL
GORAKHPUR FCIL TOWNSHIP GORAKHPUR P.O. BARGADAWA DIST-
GORAKHPUR PIN-273007 STATE UTTAR PRADESH

5: THE COMMANDANT 2ND BN SSB SIDDRATHNAGAR VILL. SEMARAR
P.O. BHIMAPAR DIST- SIDHARTHANAGAR PIN-222607 STATE UTTAR
PRADESH

6: THE COMMANDANT 11TH BN SSB DIDIHAT P.O. DIDIHAT
DIST- PITHARGARH PIN-262551 STATE UTTARAKHAND

7: THE COMMANDANT 20TH BN SSB BALRAMPUR
P.O. BALRAMPUR STATE UTTAR PRADESH

Advocate for the Petitioner : MR.D BORAH

Advocate for the Respondent : MRS A GAYANR-1 to 7

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 23-01-2024

Heard Mr. D. Borah, learned counsel for the petitioner. Also heard Mrs. A. Gayan, learned Central Government counsel, appearing for all the respondents.

Mr. Borah, learned counsel for the petitioner, at the outset, submits that he is limiting his prayer in the present proceeding for a direction to the respondent authorities to consider his case for promotion as Senior Field Assistant (Medics) only and the other prayers as made in the writ petition be moulded to the above extent.

The facts requisite for adjudication of the issues arising in the instant writ petition are noticed herein below.

The petitioner was subjected to a departmental proceeding by issuance of a Memorandum dated 20.06.2008, wherein 2(two) articles of charge came to be framed against the petitioner. The said proceeding culminated in an order issued by the disciplinary authority imposing upon the petitioner a penalty of reduction to lower stage in time scale of pay band for 3(three) years. The petitioner thereafter assailed the said order before the Appellate Authority and the Appellate Authority, vide order dated 01.06.2009, on consideration of the matter, was pleased to replace the penalty imposed by the disciplinary authority as reduction to 1(one) lower stage in time scale of pay for a period of 2(two) years only by reducing the pay from ₹ 6410/- to ₹ 6170/- only in the prescribed pay scale w.e.f. 01.06.2009.

It is seen from the materials available on record in the writ petition that the petitioner, on completion of the currency of the said penalty, had

approached the authorities praying for his appointment against the said post. At this stage, it is to be noted that prior to initiation of the departmental proceeding against the petitioner, the petitioner had qualified in a limited departmental competitive examination held for the post of Senior Field Assistant (Medics) and he was empanelled for such promotion. However, such promotion was not effected on account of initiation of the departmental proceeding against him. The petitioner, after completion of the currency of the said penalty, had approached the authorities by way of a representation praying for effecting his promotion in terms of his selection made prior to initiation of the departmental proceeding against him. The said representation having not been considered by the respondent authorities, the petitioner had instituted the present proceeding.

The selection and/or empanelment of the petitioner for his appointment as Senior Field Assistant (Medics) in the year 2008 cannot at present be given effect inasmuch as a departmental proceeding came to be initiated against the petitioner proximate to the time of the said empanelment and the petitioner having been found guilty therein was imposed with penalties. However, as prayed for by the learned counsel for the petitioner hereinabove, in the event the petitioner still fulfills the requisite eligibility criterias for being appointed as Senior Field Assistant (Medics), his case cannot be denied to be considered on account of the penalty imposed upon the petitioner. The currency of the penalty having already expired, there is no bar for consideration of the case of the petitioner for recruitment as Senior Field Assistant (Medics).

Accordingly, the petitioner is required to submit a detailed representation before the respondent No.2, through proper channel, praying for his promotion as Senior Field Assistant (Medics). On receipt of the said

representation by the respondent No.2, the same shall be given its due consideration. The petitioner if found to be eligible for such promotion, his case for such promotion be considered by following the procedure mandated and his promotion as Senior Field Assistant (Medics) be effected. However, it is to be noted that the authorities while considering the case of the petitioner, shall not reject his case on account of the penalties imposed upon him earlier, currency of which has already expired.

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

JUDGE

Comparing Assistant