

GAHC010201332023



2024:GAU-AS:12557-DB

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

Case No. : Writ Appeal No.351/2023

AMZAD ALI
S/O- ELASHI BAUX, R/O- VILLAGE- KYETH PARA, P.O.- BAITHAMARI,
P.S.- ABHAYAPURI, DISTRICT- BONGAIGAON, ASSAM.

VERSUS

1: THE STATE OF ASSAM AND 3 ORS. THROUGH- THE COMMISSIONER
AND SECRETARY TO THE GOVERNMENT OF ASSAM, PWD, DISPUR,
GUWAHATI- 781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT DISPUR GUWAHATI- 781006.

3:THE CHIEF ENGINEER PWD (N.H. WORKS)
ASSAM CHANDMARI GUWAHATI- 781003.

4:THE EXECUTIVE ENGINEER PWD (NH)
ABHAYAPURI CONSTRUCTION DIVISION ABHAYAPURI
DISTRICT- BONGAIGAON ASSAM

For the Appellant(s) : Mr. S.C. Biswas, Advocate.
Mr. A.K. Das, Advocate.

For the Respondent(s) : Mr. P. Nayak, Standing Counsel, PWD.

– B E F O R E –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

12.12.2024
(Vijay Bishnoi, CJ)

This writ appeal is preferred by the appellant being aggrieved with the
order dated 02.08.2023 passed by the learned Single Judge in WP(C)

No.5508/2022, whereby the writ petition has been dismissed.

In the writ petition, the appellant/writ petitioner has made a specific prayer that the respondents be directed to regularize his services from the year 2005, as the services of other similarly situated muster roll workers were regularized from the said year. The appellant/writ petitioner has also prayed that after his regularization, all consequential service and financial benefits may also be extended to him upto the date of his retirement from service on 31.12.2021.

The appellant/writ petitioner has projected before the learned Single Judge that he was engaged as a muster roll worker on 01.03.1989 and continued with the said engagement upto 30.12.2021. It was contended that though the services of the similarly situated muster roll workers had been regularized by the State Government in the year 2005 but the appellant's/writ petitioner's name was left out inadvertently on account of the mistake committed by the respondent authorities. It was contended that the name of the appellant/writ petitioner was not sent along with the other eligible muster roll workers for regularization and, therefore, his services could not be regularized along with the similarly situated persons.

Mr. S.C. Biswas, learned counsel for the appellant/ writ petitioner has invited the attention of this Court towards a letter dated 28.10.2005 issued by the Executive Engineer concerned and has submitted that the Executive Engineer had admitted that the name of the appellant/writ petitioner was left out inadvertently. The learned counsel has, therefore, submitted that when the services of the similarly situated muster roll workers had been regularized way back in the year 2005, the services of the appellants are also liable to be regularized and, therefore, a direction be issued to the respondents of this effect.

The learned Single Judge has dismissed the writ petition filed on behalf of the appellant/writ petitioner on the ground that the appellant/writ petitioner attained the age of superannuation on 31.12.2021 and has approached this Court only in the year 2022 but has failed to explain the delay in approaching this Court. The learned Single Judge has also opined that after attaining the age of superannuation, the prayer of the appellant/writ petitioner for regularizing his services cannot be granted. The learned Single Judge has placed reliance on the decisions of the Hon'ble Supreme Court rendered in ***Secretary, State of Kerala -Vs- Uma Devi***, reported in ***(2006) 4 SCC 1*** and ***M.L. Kesari -Vs- Union of India & Ors.***, reported in ***(2010) 9 SCC 247***.

Having heard the learned counsel appearing for the parties and after going through the material available on record and particularly taking into consideration the fact that before approaching this Court with a prayer for issuing a direction to the respondent authorities for regularizing his services, the appellant/writ petitioner has attained the age of superannuation in December, 2021, we are of the view that the learned Single Judge has rightly refused to grant any relief to the appellant/writ petitioner. Hence, we do not find any illegality and infirmity in the impugned order.

Resultantly, this writ appeal is dismissed with no order as to costs.

JUDGE

CHIEF JUSTICE