

GAHC010225612017



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

**Case No. : WP(C)/8199/2017**

CHAMPAWATI PATOR  
W/O- SRI JYOTISH KUMAR NARZARY R/O- QUARTER NO.L /124 B  
BAROWARI, UZANBAZAR, DIST-KAMRUPM, PIN-781001

VERSUS

ASSAM PUBLIC SERVICE COMMISSION and 3 ORS.  
REPRESENTED BY ITS CHAIRMAN, JAWAHARNAGAR, KHANAPARA, GHY-  
22

2:THE SECRETARY  
ASSAM PUBLIC SERVICE COMMISSION  
JAWAHARNAGAR  
KHANAPARA  
GHY-6

3:THE PRINCIPAL SECRETARY  
TO THE GOVT. OF ASSAM  
WPT and BC DEPTT.  
DISPUR  
GHY-6

4:SMTI. SUSHAMA DAS RAJKHOWA  
SENIOR ADMINISTRATIVE ASSISTANT  
OFFICE OF THE ASSAM PUBLIC SERVICE COMMISSION  
JAWAHARNAGAR  
KHANAPARA  
GHY-2

**Advocate for the Petitioner : MR.M SARANIA**

**Advocate for the Respondent : MR. R K TALUKDAR (SC, APSC, R-1,2)**

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**15.05.2024**

Heard Shri M. Sarania, learned counsel for the petitioner. Also heard Shri P.P. Dutta, learned Standing Counsel for the APSC - respondent nos. 1 & 2 and Ms. M. Bhattacharya, learned Addl. Senior Government Advocate, Assam for the respondent no. 3.

None appears for the respondent no. 4.

At the outset, Shri Sarania, the learned counsel for the petitioner has fairly submitted that during the pendency of this writ petition, the substantial relief of promotion to the post of Superintendent in the APSC has already been granted to the petitioner. The present issue is only with regard to a claim for benefits from the date when the respondent no. 4 was promoted to the post of Superintendent in the Commission.

Bereft of details, it is projected that the petitioner was senior to the respondent no. 4 in the feeder cadre of Senior Assistant in the Commission. However, the respondent no. 4 was given the benefit of promotion to the next higher post of Superintendent on 05.08.2017 by overlooking the case of the petitioner. It has been projected in the petition that both on the count of seniority as well as roster point, it is the petitioner who should have been given the benefit of promotion prior to the respondent no. 4. It is also submitted that the justifications sought to be given by the Commission by taking the support of the roster point is also an incorrect justification. It is clarified that though the petitioner was initially appointed as an ST (P), his community was brought into the ST(H) category in the Presidential Order of 1950 by

an amendment of 2003 and because of the said amendment, prejudice could not have been caused to the petitioner.

Shri Dutta, the learned counsel for the APSC has however submitted that seniority was not the only criteria and the promotion of the respondent no. 4 to the post of Superintendent was done by following the roster point. It is submitted that the said respondent no. 4 is a Schedule Caste candidate and the roster point No. 8 was meant for Schedule Caste which is a different category from either the ST(P) or ST (H) whichever community the petitioner may be treated to belong.

Shri Sarania, the learned counsel for the petitioner in his rejoinder has denied the correctness of the submission regarding the category of the private respondent no. 4 *vis-a-vis* the petitioner.

This Court has however been informed that the respondent no. 4 has also retired from service on attaining the age of superannuation on 31.03.2020 and therefore the aspect of seniority is no longer an existing issue. As regards the only issue which may be treated to be alive is the period of benefit from 05.08.2017 to 21.02.2018. Apart from the aforesaid period being of about 6 months only and the claim of the petitioner to be given the benefit of promotion on the same date being disputed on the ground of the roster point, this Court is of the view that the said claim of the petitioner is not a substantial claim which requires a further examination.

This Court has also taken into note that the petitioner who was promoted on 21.12.2018 as Superintendent has his service up to 2026.

In view of the above, no effective relief can be granted to the petitioner and accordingly the writ petition is closed.

**JUDGE**

**Comparing Assistant**