

GAHC010226952024



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

Case No. : WP(C)/5582/2024

MD. RAKIBUL FARUQUE
SON OF A.M FAROOQI, RESIDENT OF B.B ROAD, DACCAPATTY, P.S.
NAGAON, DIST- NAGAON, PIN- 782001, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM PERSONNEL (B) DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
AGRICULTURE DEPARTMENT
DISPUR
GUWAHATI 781006

3:COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
SOCIAL WELFARE DEPARTMENT
DISPUR
GUWAHATI 781006

4:THE PRINCIPAL SECRETARY
AGRICULTURE DEPARTMENT
DISPUR
GUWAHATI 781006

5:THE DIRECTOR
AGRICULTURE DEPARTMENT
ASSAM
KHANAPARA
GUWAHATI- 78102

Advocate for the Petitioner : MR. R MAZUMDAR, MS T WAPANGLA,MRS P RAI

Advocate for the Respondent : SC, AGRI. DEPARTMENT,

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 30-10-2024

Heard Mr. KP Pathak, learned senior counsel assisted by Ms. T Wapangla, learned counsel appearing for the writ petitioner. Also heard Mr. JK Goswami, the learned Additional Senior Government Advocate, Assam appearing on behalf of the respondent Nos.1 and 3 and Ms. R Bora, learned standing counsel, Agriculture Department, Government of Assam for the respondent Nos.2, 4 and 5.

2. The writ petitioner herein is presently serving as Assistant Director, Agriculture (Horti) and posted in the office of the Joint Director, Tezpur with an attachment to the Office of District Agriculture Officer, Nagaon. The Home District of the petitioner is Nagaon. Since the petitioner is a person with benchmark disability (of more than 50%), hence, according to the petitioner, in terms of the OM No.A-B 14017/41/90-Estt(RR) read with Memo No.SWD11196/81-A dated 08.08.2000, he is entitled to be posted in his home town. However, due to want of vacancy in Nagaon district, the petitioner had to be posted at Tezpur, while keeping him attached to the office of the District Agriculture Officer, Nagaon.

3. The case of the petitioner, in brief, is that due to retirement of the incumbent Assistant Director of Agriculture (DL-1) i.e. Sri Ranjan Prasad Deka

w.e.f.30th October, 2024, one vacancy will be available at Nagaon, so as to accommodate the writ petitioner. Therefore, the respondents can consider posting the petitioner against the said vacancy at Nagaon so as to mitigate the hardship arising out of his disability condition.

4. Mr. KP Pathak, the learned senior counsel for the writ petitioner submits that although the petitioner had submitted a representation to the above effect before the respondent No.5, no action has yet been taken in the matter. Hence, this writ petition.

5. Ms. Bora, the learned standing counsel, Agriculture Department, on the other hand, submits that the competent authority to look into these issues is the respondent No.2. Therefore, if the petitioner has any grievance in the matter, the representation should be addressed to the respondent No.2.

6. After hearing the submissions of the learned counsel appearing for both the sides and considering the limited nature of grievance expressed in the writ petition, with the consent of both the parties, the present writ petition is being disposed of by granting 3(three) working days time w.e.f. today to the writ petitioner to submit a representation before the respondent No.2, ventilating his grievances in the matter. If such a representation, enclosing a copy of this order, is submitted by the petitioner before the respondent No.2, then in that event, the same may be considered in the light of the standing Government Notifications and be disposed of with a speaking order.

7. Until such time, the aforesaid exercise is completed, the vacancy arising in the post of Assistant Director of Agriculture at Nagaon shall not be permanently filled up by posting any other candidate.

8. With the above observation(s), this writ petition stands disposed of.

JUDGE

Comparing Assistant