

GAHC010243192012



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

Case No. : WP(C)/1715/2012

ASOM ABKARI KARMACHARI SANGHA
HEAD OFFICE AT GUWAHATI SADAR, EXCISE CIRCLE, PANBAZAR, GHY-1,
REPRESENTED BY ITS SECRETARY, NAMELY SHRI RAJEEV KAKOTY, S/O-
LATE GOVIND KAKOTI, RESIDENT OF ALAKANANDA LORINA, II FLOOR,
2B, AKASHIPATH, RG BARUAH ROAD, GUWAHATI-24, POZOO ROAD,
PSGEETANAGAR, DIST. KAMRUP(M), ASSAM, PIN-781024.

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, EXCISE
DEPARTMENT, DISPUR, GHY-6

2:THE COMMISSIONER OF EXCISE
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY-6

3:THE DY. COMMISSIONER OF EXCISE
ASSAM
HOUSEFED COMPLEX
GHY-6

4:THE COMMISSIONER and SECRETARY PERSONNEL A DEPARTMENT TO
THE GOVT. OF ASSAM
DISPUR
GHY-6

5:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY THE SECRETARY
JAWAHAR NAGAR

KHANAPARA
GHY-2

Advocate for the Petitioner : MR.H R A CHOUDHURY

Advocate for the Respondent : MR G CHOUDHURY (SC, APSC)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 18.01.2024

Heard Mr. J. Abedin, learned counsel for the petitioner. Also heard Mr. P. N. Goswami, learned Additional AG.

2. This writ petition is filed by the petitioner association, which has approached this Court ventilating the grievances of the members of their association. The members of the association are the officers and staff, including the Assistant Inspectors of Excise working under the Department of Excise, Government of Assam. It is submitted that the association is a recognized association under the Government of Assam.

3. For the Assistant Inspectors of Excise their promotional avenue is to the next higher post is the Inspector of Excise and as per Rule 5 (3) of the Assam Excise Service Rules, 1990, the promotional quota is earmarked at 40% of the vacancies available. 50% of the vacancies are reserved for direct recruits to be appointed to the post of Inspector of Excise and 10% are reserved for promotion from the cadre of UDA.

4. In view of the limited promotional avenues, the members of the association represented before the Government/competent authority and after a series of discussions, it was decided in the meetings that the promotional quota

for Assistant Inspectors of Excise was to be increased to 60% as against the demand of the members of the association for increasing it to 65%. In view of the discussions held between the members of the association and the competent authorities, a cabinet memorandum was circulated for being placed before the cabinet. Cabinet memorandum was circulated vide file No. Ex.151/2004. In the said cabinet memorandum it was mentioned that the increase for promotional quota up to 60% in respect of Assistant Inspector of Excise to the cadre of Inspector of Excise was placed for cabinet approval.

5. It is trite to mention here that earlier, since the grievances of the petitioners were not addressed, they had approached this Court by filing writ petition being WP(C) No. 4916 of 2007, which was disposed of on 19.07.2007 by a Co-ordinate Bench directing the respondents, namely, the Excise department, to look into the grievances of the petitioner association and take appropriate decision on the representation filed by the petitioner. And the said direction was required to be implemented within a period of 3 (three) weeks from the date of receipt of a certified copy of the order.

6. It is submitted at the Bar that pursuant to this direction, discussions were held between the members of the petitioner association and the competent authority which lead to the cabinet memorandum being circulated for a proposal for enhancement of a promotional quota in respect of promotions from Assistant Inspector of Excise to Inspector of Excise to 60% as against the existing 40% vacancies under the Rules.

7. An affidavit by the respondent, Excise Department was filed on 19th July 2012. In the said affidavit filed by the respondent department on 19th July, 2012, there is an averment that the Government has decided to fill up only 30%

posts through direct recruitment till the final outcome of the proceedings or the cabinet decision.

8. Today when the matter was called up Mr. P. N. Goswami, learned Additional AG appearing for the respondent department submits that the department is in agreement with the proposals made by the petitioner association for enhancement of the promotional quota from 40% to 60% and the same was duly circulated by the cabinet memorandum vide file No. Ex.151/2004. However, in view of the pendency of the present writ petition, no cabinet decision was taken. He submits that if the writ petition is disposed of at this stage and liberty is granted to the respondents to pursue the matter, then further steps as required for placing the matter before the cabinet will be taken up.

9. Such submission made by the learned Additional AG before the Court is not objected to by the learned counsel for the petitioner. In that view of the matter, taking on record the submissions of the learned Additional AG that the department will take necessary steps for placing the matter before the cabinet in terms of the discussions and parties held between the petitioner association and the respondents for enhancement of the promotional quota of Assistant Inspectors of Excise from the existing 40% to 60% as proposed. Accordingly, this writ petition stands closed in terms of the submissions made by the respondent counsels and accepted by the learned counsel for the petitioners.

10. The respondents are expected to proceed in the matter in right earnest and take all necessary steps for placing the matter before the cabinet for its approval and thereafter, proceed in terms of any such decision as may be taken by the cabinet.

11. In terms of the above, writ petition stands disposed of. Interim orders, if any, stands vacated.

JUDGE

Comparing Assistant