

GAHC010257542022



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

Case No. : Review.Pet./1/2023

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC WORKS ROADS DEPTT., DISPUR, GUWAHATI- 781006.

2: THE CHIEF ENGINEER
PUBLIC WORKS ROADS DEPTT.
CHANDMARI
GUWAHATI- 781003
ASSAM.

3: THE SUPERINTENDING ENGINEER
PUBLIC WORKS ROADS DEPTT.
JORHAT NEC CIRCLE
JORHAT

VERSUS

MANIKA PAYENG
D/O- LATE TANKESWAR PAYENG, R/O- VILL- LADOIGORH MISSING GAON,
P.O. AND P.S. HALOWATING, DIST.- SIBSAGAR, ASSAM, PIN- 785681

Advocate for the Petitioner : SC, PWD ROAD,

Advocate for the Respondent : MR. R P HAZARIKA,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

26.09.2024

1. Heard Mr. D. Nath, learned counsel for the review petitioners. No one

appears for the writ petitioner even though one Mr. R.P. Hazarika, Advocate has filed Vakalatnama on behalf of the writ petitioner.

2. This case had not been disposed of earlier due to the absence of the counsel for the writ petitioner. As more than 1 year has elapsed, this Court is not inclined to keep the review petition pending any longer and the same is being decided on the basis of the materials on record.

3. The writ petitioner had applied for compassionate appointment and approached this Court with a prayer to direct the review petitioners to consider her appointment to the post of Section Assistant, in terms of State Level Committee (SLC) meeting minutes dated 19.06.2028.

4. This Court, vide order dated 08.03.2021, had allowed the writ petition and directed the respondents to appoint the writ petitioner on the basis of the SLC meeting minutes dated 19.06.2018.

5. The case of the review petitioners is that the review petitioners had not brought to the notice of this Court, at the time of disposal of the writ petition, the fact that the SLC meeting minutes dated 19.06.2018 had been superseded by the SLC meeting minutes dated 31.12.2018, wherein the writ petitioner's prayer for compassionate appointment had been dismissed, on the ground that there was no vacant post within the 5% quota of posts reserved for compassionate appointment.

6. The review petitioners' counsel submits that as the SLC meeting minutes dated 31.12.2018, which had rejected the writ petitioner's application for compassionate appointment, had not been brought to the notice of the Court at the time of disposal of WP(C) 3165/2020, an erroneous order has been issued by this Court. He accordingly submits that the review petition should be allowed and the writ petition should be considered afresh, by taking into account the SLC meeting minutes dated 31.12.2018.

7. On considering the fact that the order dated 08.03.2021 passed in WP(C) 3165/2020 has been made only on the basis of the SLC meeting minutes dated 19.06.2018, without taking into consideration the subsequent SLC meeting minutes dated 31.12.2018, there could be a miscarriage of justice, in view of this Court not having taken into account the subsequent SLC meeting minutes dated 31.12.2018. This Court is thus of the view that a case for review has been made out. Accordingly, the impugned order dated 08.03.2021 passed in WP(C) 3165/2020 is hereby recalled.

8. The review petition is accordingly allowed.

9. Registry to restore WP(C) 3165/2020 and list the same on 07.11.2024. The review petitioners should file their affidavit-in-opposition in WP(C) 3165/2020 on or before 07.11.2024.

JUDGE

Comparing Assistant