

GAHC010258642014



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

Case No. : WP(C)/4901/2014

PRANJIT KR. DAS and 3 ORS,
S/O- LT. PARAMESH DAS, R/O- WARD NO. 3, BIJNI TOWN, P.O.- BIJNI, DIST.-
CHIRANG, BTAD, ASSAM.

2: SANDESWAR BARMAN
S/O- BIDDESWAR BARMAN
R/O- WARD NO. 3
BIJNI TOWN
P.O.- BIJNI
DIST.- CHIRANG
BTAD
ASSAM.

3: SANJEEB PAUL CHOUDHURY
S/O- LT. SITESH RANJAN PAUL
R/O- WARD NO. 3
ABHAYAPURI
P.S. and DIST.- BONGAIGAON
ASSAM.

4: AMINUL ISLAM KHANDAKAR
S/O- AHMED ALI KHANDAKAR
VILL.- NO. 3 SALABILA
P.O.- SALABILA
DIST.- BONGAIGAON
ASSAM

VERSUS

THE STATE OF ASSAM and 8 ORS,
THROUGH THE SECY. TO THE GOVT. OF ASSAM, REVENUE AND D.M.
DEPTT., DISPUR, GHY- 6.

2: THE DIRECTOR OF LAND RECORDS AND SURVEYS ETC.

ASSAM

RUPNAGAR
GUWAHATI.

3:THE DIRECOR OF LAND RECORDS AND SURVEYS ETC.
BTC
KOKRAJHAR.

4:THE COMMISSIONER
LOWER ASSAM DIVISION
PANBAZAR
GUWAHATI.

5:THE DY. COMMISSIONER
BONGAIGAON
P.O.
P.S. and DIST.- BONGAIGAON
ASSAM.

6:THE PRINCIPAL SECY.
BTC
BODOFA NAGAR
KOKRAJHAR
BTAD
ASSAM
PIN- 783370.

7:THE DY. COMMISSIONER
CHIRANG AT KAJALGAON
P.O.- KAJALGAON
DIST.- CHIRANG
BTAD
ASSAM.

8:THE SUB-DIVISIONAL OFFICER C
BIJNI
P.O.
P.S. - BIJNI
DIST.- CHIRANG
BTAD
ASSAM.

9:THE CIRCLE OFFICER
BIJNI REVENUE CIRCLE
P.O. and P.S.- BIJNI
DIST.- CHIRANG
BTAD

ASSAM

Advocate for the Petitioner : MR.Z RAHMAN

Advocate for the Respondent : SC, BTC

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

13.05.2024

Heard Shri M.H. Ahmed, learned counsel for the petitioners. Also heard Ms. M. Bhattacharya, learned Addl. Senior Government Advocate, Assam as well as Ms. R.B. Bora, learned Standing Counsel, BTC.

2. The claim of the petitioners is with regard to their proper fitment in the Gradation List of Junior Assistant and a fair consideration for their promotion to the higher grade of Senior Assistant.

3. Shri Ahmed, the learned counsel for the petitioners, at the outset has submitted that from the materials placed on record, the petitioner nos. 1 & 2 have already been considered and promoted to the post of Senior Assistant and therefore, the present claim is with regard to the petitioner nos. 3 & 4 only.

4. It is submitted that while the BTAD was created, there were 83 numbers of villages which fell outside the said BTAD and the petitioners who were appointed by the Deputy Commissioner, Bongaigaon were mainly entrusted with works pertaining to the aforesaid 83 numbers of villages. However, in December, 2013, the Head of Account was transferred to BTAD. Though a hearing was conducted in which the petitioners had filed their objections and there was also a proposal in a meeting of the Committee on 25.06.2014 to create new Revenue Circle, the benefits of placing the petitioners in their proper position in the Gradation List and subsequent appointments

were not given.

5. It is contended that the names of the petitioners are present in the Gradation List dated 28.06.2014 and a selection committee was also constituted for promotion to the rank of Senior Assistant. Reliance has also been placed upon a communication dated 25.08.2014 by the Deputy Commissioner, Bongaigaon to the Principal Secretary, BTC to include 8 numbers of Junior Assistant in the Gradation List of the BTAD with due regard to their seniority. As observed above, the petitioner nos. 1 & 2 have already been promoted and the learned counsel for the petitioners prays for a similar treatment for the petitioner nos. 3 & 4.

6. Ms. M. Bhattacharya, learned State Counsel by referring to the affidavit-in-opposition filed by the respondent no. 5 on 15.12.2014 has however submitted that the appointment order of only the petitioner no. 1 has been annexed and as per the averments made in paragraph 3 of the writ petition, the petitioners nos. 1 & 2 were appointed on 19.06.1990 which was before the creation of the BTAD whereas the petitioner nos. 3 & 4 were appointed on 03.03.2008, i.e., after creation of the BTAD and therefore, the cases of the petitioner nos. 3 & 4 cannot be held to be at par with the petitioners nos. 1 & 2.

7. The learned State Counsel has however clarified that the names of the petitioners nos. 3 & 4 are included in the Gradation List of the BTAD in terms of the letter dated 25.08.2014 by granting proper seniority as per their dates of appointment.

8. Ms. R.B. Bora, the learned Standing Counsel, BTC while endorsing the submissions of the learned State Counsel has informed this Court that affidavit-in-opposition has been filed by the respondent nos. 3, 6, 8 & 9 on 08.02.2018. It is reiterated that the mode of appointment of the petitioner nos. 1 & 2 is different from that of the petitioner nos. 3 & 4 and in fact a common writ petition could not have been filed.

9. Shri Ahmed, the learned counsel for the petitioners, in his rejoinder has

submitted that the confirmation order of the petitioner nos. 3 & 4 in the year 2013 is by the Deputy Commissioner, Bongaigaon.

10. Upon hearing the learned counsel and on examination of the materials on record, it is not in dispute that the appointments of the petitioner nos. 1 & 2 were in the year 1990 which is much prior to the creation of the BTAD whereas appointment of the petitioner nos. 3 & 4 were on 03.03.2008 i.e., after creation of the BTAD.

11. This Court has also been informed that in the common Gradation List prepared by the BTAD, the names of the petitioner nos. 3 & 4 are included.

12. Considering the aforesaid facts and circumstances, the present writ petition is disposed of by directing that based upon the seniority of the petitioner nos. 3 & 4 *qua* their dates of initial appointed on 03.03.2008, their names are to be properly placed in the Gradation List and in the event of any promotional exercise to the next higher post of Senior Assistant, their cases are to be duly considered on the basis of their seniority, in accordance with law.

JUDGE

Comparing Assistant