

GAHC020004452024



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

Case No. : WP(C)/155/2024

SHRI VISIELIE KEZO
COMMISSIONER AND SECRETARY
DEPT. OF HEALTH AND FAMILY WELFARE
GOVT. OF NAGALAND
R/O BILLY GRAHAM ROAD
KOHIMA NAGALAND-797001

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVT. OF NAGALAND
NAGALAND KOHIMA

2:FINANCE COMMISSIONER
GOVT. OF NAGALAND

3:COMMISSIONER AND SECRETARY
DEPT. OF PERSONNEL AND ADMINISTRATIVE REFORMS
NAGALAND KOHIM

Advocate for the Petitioner : C. T. JAMIR, SR. ADV

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

ORDER

13.08.2024

Heard Mr. C.T. Jamir, learned senior counsel for the petitioner

assisted by Mr. I. Imchen, learned counsel.

2. The case of the petitioner in brief is that he was initially selected and appointed to the Indian Revenue Service (IRS), Group-A Services conducted by the Union Public Service Commission and was allocated to Indian Customs & Central Excise Group 'A' Service vide Letter No. 13011/16/96-AIS(I) in the year 1995 and posted as Assistant Commissioner in the Department of Central Excise in the year 1997 at Shillong, Meghalaya, after completion of training. The petitioner's service was permanently absorbed by the Government of Nagaland vide Notification dated 07.08.2012 under specified terms and conditions w.e.f. the date of Cabinet Approval, i.e. 23.07.2012. The petitioner is presently serving the Government of Nagaland as the Commissioner & Secretary in the Health & Welfare Department. It is the case of the petitioner that his batch in the parent cadre (1995), were granted Non-Functional Upgradation to the Higher Administrative Grade (HAG) by the Office Order No. 49/2023 dated 21.04.2023 w.e.f. 19.11.2022 and consequent to which similarly situated persons with the petitioner has been granted the Non-Functional Upgradation in the Higher Administrative Grade (HAG). In terms of the Order dated 21.04.2023, the petitioner has also submitted the application for his upgradation vide the representation dated 15.05.2023 addressed to the Chief Secretary, Government of Nagaland, however, the same is still pending disposal with the Government.

3. It is also submitted that in a similar case one Shri M.k. Mero (now deceased), who retired as Principal Secretary, was also granted promotion to HAG grade on the same principle. The petitioner and Shri M.K. Mero being similarly placed and from the

organized Group 'A' Services of the Central Government, denial of Higher Administrative Grade (HAG) which is extended in the rank of Principal Secretary to the petitioner is not only arbitrary but also discriminatory.

4. Mr. C.T. Jamir, the learned senior counsel, however, submits that the present case can be disposed with a direction to the respondent authorities, more particularly, the respondent No. 1, to dispose the representation dated 15.05.2023 submitted by the petitioner which is for considering the upgradation to the Higher Administrative Grade (HAG) corresponding to Level-15 of the pay matrix of the Central Government.

5. Mr. Veto V. Zhimomi, learned Government Advocate submits that he is not averse to the submissions made by the learned senior counsel if the prayer for disposal of the writ petition is limited to the disposal of the representation dated 15.05.2023 submitted by the petitioner.

6. In view of the submissions made by the learned counsel for the parties the present writ petition is disposed with a direction to the State respondents to dispose the representation dated 15.05.2023 submitted by the petitioner to the Chief Secretary to the Government of Nagaland, for considering his upgradation to the Higher Administrative Grade (HAG) corresponding to Level-15 of the pay matrix of the Central Government as expeditiously as possible but not exceeding the period of 30 (thirty) days from the date of passing of this order, taking into consideration, that the petitioner is retiring from service on 31.08.2024.

7. Any order passed by the State respondents on the representation submitted by the petitioner shall forthwith be

intimated to the petitioner.

8. The writ petition stands disposed.

Sd/-
JUDGE

Comparing Assistant