



GAHC010224862014



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

Case No. : WP(C)/994/2014

ASHIM DEB GOSWAMI
S/O- LT. BISWADEB GOSWAMI, B-2, KANCHAN HOUSING COMPLEX, 10
RAJAT KAMAL PATH, ZOO ROAD WEST, GHY- 24.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
IRRIGATION DEPTT., DISPUR, GHY- 6.

2:THE SELECTION BOARD
REP. BY THE CHAIRMAN
IRRIGATION DEPTT.
GOVT. OF ASSAM
DIST.- KAMRUP
ASSAM

Advocate for the Petitioner : MR.P K SARMA

Advocate for the Respondent : SC, IRRIGATION

Linked Case : MC/729/2014

LOKABHIRAM SAIKIA

VERSUS

ASHIM DEB GOSWAMI and ORS.



Advocate for : MR.A D CHOUDHURY
Advocate for : appearing for ASHIM DEB GOSWAMI and ORS.

Linked Case : WP(C)/5654/2014

ASHIM DEB GOSWAMI
S/O- LT. BISWADEB GOSWAMI
B-2
KANCHAN HOUSING COMPLEX
10
RAJAT KAMAL PATH
ZOO ROAD WEST
GHY- 24.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
IRRIGATION DEPTT.
DISPUR
GHY- 6.

2:THE SELECTION BOARD
REP. BY THE CHAIRMAN
IRRIGATION DEPTT.
GOVT. OF ASSAM
DIST.- KAMRUP M
ASSAM.

3:LOHIT CHANDRA PATHAK
CHAIRMAN CUM MANAGING DIRECTOR
LOWER ASSAM COMMAND AREA DEVELOPMENT AND WATER
MANAGEMENT LACADA and WM
CHANDMARI
GHY- 3.

Advocate for : MR.P K SHARMA
Advocate for : MS. S SAIKIA appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/4753/2014



ASHIM DEB GOSWAMI
S/O- LT. BISWADEB GOSWAMI
B-2
KANCHAN HOUSING COMPLEX
10
RAJAT KAMAL PATH
ZOO ROAD WEST
GHY- 24.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
IRRIGATION DEPTT.
DISPUR
GHY- 6.

2:THE SELECTION BOARD
REP. BY THE CHAIRMAN
IRRIGATION DEPTT.
GOVT. OF ASSAM
DIST.- KAMRUP
ASSAM.

3:LOHIT CHANDRA PATHAK
CHAIRMAN CUM MANAGING DIRECTOR
LOWER ASSAM COMAND AREA DEVELOPMENT AND WATER
MANAGEMENT LACADA and WM
CHANDMARI
GHY- 3.

4:MAHENDRA MOHAN BORO
ADDL. CHIEF ENGINEER
ZONE- I
IRRIGATION DEPTT.
BARPETA
DIST.- BARPETA
ASSAM.

5:BIMALA KANTA DOLEY
ADDL. CHIEF ENGINEER
ZONE- V
HAFLONG
DIST.- DIMA HASO
ASSAM.

6:KUJENDRA DOLEY
IMPLEADED VIDE H.C.O. DTD. 26.11.2014

Advocate for : MR.K N CHOUDHURY



Advocate for : MR.M K CHOUDHURY appearing for THE STATE OF ASSAM AND
5 ORS

BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners : Shri SK Goswami, Adv.

Advocate for the respondents : Shri N. Upadhyay, SC-Irrigation
Shri T. Chakraborty, Adv.

Date of hearing : **30.04.2024**

Date of Judgment : **30.04.2024**

JUDGMENT & ORDER

Heard Shri SK Goswami, learned counsel for the petitioner in these cases. Also heard Shri N. Upadhyay, learned Standing Counsel, Irrigation Department. Shri T. Chakraborty, learned counsel is also present who had filed MC/729/2014 in WP(C)/994/2014 praying for impleadment as party respondent.

2. At the outset, the learned counsel for the petitioner have informed this Court that there are substantial developments in these cases and the principal relief has already been granted to the petitioner towards his claim for promotion and seniority in the Department. It has also been informed that the petitioner as well as private respondent had, in the meantime, retired from services. The only issue at this stage, as canvassed by Shri Goswami, learned counsel for the petitioner is the issue of regularization of services as Chief Engineer (Minor Irrigation) of the Department.

3. Shri Goswami, learned counsel for the petitioner has drawn the attention



of this Court to the order dated 08.01.2015 passed in a bunch of writ petitions including these cases. By the said order, the petitioner was directed to be allowed to hold the charge of the post of Chief Engineer (Minor Irrigation) and his case for regular promotion was to be considered in the ensuing DPC.

4. It is submitted that pursuant to the said order, the petitioner was allowed to hold charge of the post of Chief Engineer (Minor Irrigation) vide an order dated 22.01.2015 and on 31.03.2015, the petitioner had retired from service. The learned counsel accordingly submits that in spite of aforesaid order, his service in the rank of Chief Engineer (Minor Irrigation) has not been regularized.

5. Shri N. Upadhyay, learned Standing Counsel, Irrigation Department however submits that there was no instructions as to whether the petitioner was actually given the benefit of promotion to the aforesaid post. The role of the incumbent, who is represented by Shri T. Chakraborty, learned counsel, who has filed the impleadment application in the year 2014 may not be relevant for adjudication of the present issue.

6. To resolve the issue which is presently pending, it would be convenient if the operative part of the order dated 08.01.2015 of this Court passed in, amongst others, the present writ petitions is extracted hereinbelow-

“In the proceedings before the Court on 16-12-2014, departmental counsel Dr. Ahmed submitted that the petitioner (Shri Ashim Deb Goswami) would be definitely considered for giving current charge of the post of Chief Engineer. In that view of the matter, this Court ordered that in case the respondent authorities decide to give the current charge of the post of Chief Engineer to any other person, the same shall not be done without taking leave of the Court.”



Without entering into the controversial issues raised in the bunch of writ petitions, admitted position as on today is that petitioner Shri Ashim Deb Goswami is the senior most officer in the rank of Addl. Chief Engineer in the Irrigation Department. He is retiring from service on attaining superannuation on 31-03-2015.

Having regard to the litigational background and keeping in mind the previous orders passed by this Court, including the order dated 16-12-2014, Court is of the view that passing of the following orders at this stage would meet the ends of justice. Accordingly, the following orders are passed:-

- 1. Respondent No.1 i.e., Commissioner & Secretary to the Government of Assam, Irrigation Department shall pass necessary order within a period of seven (7) days from today allowing the petitioner Shri Ashim Deb Goswami to hold the current charge of the post of Chief Engineer (Minor Irrigation) in the Irrigation Department till finalization of the selection;*
 - 2. Case of the petitioner Shri Ashim Deb Goswami along with other eligible candidates shall be considered by the DPC scheduled to meet on 20-01-2015 for regular promotion to the post of Chief Engineer.*
 - 3. Order dated 16-12-2014 stands modified accordingly."*
7. Though, Shri Upadhyay, learned Standing Counsel, was not certain about implementation / outcome of the said order, the said aspect has been put to rest by Shri Goswami, learned counsel for the petitioner who has presented before this Court a copy of the order dated 22.01.2015 passed by the Department whereby the petitioner was allowed to hold the charge of the post



of Chief Engineer (Minor Irrigation) pursuant to the order dated 08.01.2015, as mentioned above.

8. It is also not in dispute that the petitioner had thereafter retired on 31.03.2015 on attaining the age of superannuation while holding the said post.

9. In view of the aforesaid facts and circumstances and the backgrounds observations made by this Court which is recorded in the order dated 08.01.2015, denial of the aspect of regularization of the petitioner in the post of Chief Engineer (Minor Irrigation) would not be a fair and reasonable action.

10. Accordingly, all these writ petitions are disposed of by directing the respondent Department to consider and pass consequential order for regularization of the service of the petitioner in the rank of Chief Engineer (Minor Irrigation) and consequently to give the benefits which would accrue upon such regularization. To facilitate the aforesaid exercise, the petitioner is directed to submit a detail representation along with a copy of the relevant orders of this Court including a certified copy of the present order to the Department within a period of 10 days from today.

11. The aforesaid exercise, as indicated above, be completed expeditiously and preferably within a period of 4(four) months from the date of receipt of such representation.

12. A copy of the order dated 22.01.2015 is made a part of the records.

13. All the writ petitions including misc. case are accordingly disposed of.

JUDGE

Comparing Assistant