

GAHC010005402022



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

Case No. : WP(C)/505/2022

LAKHI KANTA ROY
S/O. MARTYRS RUDRA MOHAN ROY, PERMANENT RESIDENT OF VILL.
KASHIPARA, P.O. BHOTGAON, P.S. KOKRAJHAR, DIST. KOKRAJHAR,
ASSAM PRESENTLY STATE GOVT. OF SERVANT RENDERING SERVICES AS
GRADE-IV PEON SINCE 01.08.1987 IN THE OFFICE OF THE ASSTT.
EXECUTIVE ENGINEER (PHE), BILASIPARA SUB DIVISION, P.S.
BILASIPARA, P.O. HAKAMA, DIST. DHUBRI, ASSAM UNDER THE
APPOINTING AUTHORITY OF THE EXECUTIVE ENGINEER (PHE), DHUBRI
DIVISION, DHUBRI, P.S. DHUBRI, P.O. DHUBRI, ASSAM PRIOR TO THE
CREATION OF THE BOBOLAND AUTONOMOUS COUNCIL UNDER THE
AUTHORITY OF THE EXECUTIVE ENGINEER (PHE), KOKRAJHAR
DIVISION, ASSAM, P.O. AND P.S. KOKRAJHAR, DIST. KOKRAJHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 24 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, ASSAM
SECRETARIAT, DISPUR, GUWAHATI-781006, P.O. ASSAM SACHIVALAYA,
P.S. DISPUR, DIST. KAMRUP (M), ASSAM.

2:THE COMMISSONER AND SECY.
TO THE GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
P.O. ASSAM SACHIVALAYA
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM.

3:THE CHIEF ENGINEER

PUBLIC HEALTH ENGINEERING
ASSAM
HENGRABARI
GUWAHATI-781036
DIST. KAMRUP (M)
ASSAM.

4:THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
DHUBRI
P.O. AND P.S. DHUBRI
DIST. DHUBRI
ASSAM.

5:THE SUPERINTENDING ENGINEER (PHE)
NALBARI CIRCLE
P.O. AND P.S. NALBARI
DIST. NALBARI
ASSAM CUM THE THEN THE CHAIRMAN
DEPARTMENTAL SELECTION COMMITTEE
NALBARI CIRCLE
ASSAM.

6:THE DEPUTY SECRETARY (PHE)
BODOLAND AUTONOMOUS COUNCIL
KOKRAJHAR
P.O. KOKRAJHAR
P.S. KOKRAJHAR
ASSAM.

7:THE ASSTT. EXECUTIVE ENGINEER (PHE)
BILASIPARA SUB DIVISION
BILASIPARA
P.O. HAKAMA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM.

8:MONTAZ ALI SARKAR

KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

9:LAKHESWAR DEKA
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

10:NAYAN ADHIKARI
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

11:NASIR UDDIN AHMED
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

12:BHUMIDHAR DEV SARMA
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

13:SURANJAN SARKAR
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA

DIST. DHUBRI
ASSAM.

14:ASHIS DEB
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

15:IVA RANI ROY
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

16:FARHADUL ALI
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

17:HAFIZUR RAHMAN
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

18:RATNESWAR DEB NATH
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION

BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

19:MADAN MOHAN ROY

KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

20:SURAT JAMAN SARKAR

KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

21:SARDAR ALI SK.

KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

22:CHITA RANJAN ROY

KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

23:BHABEN ROY

KHALASI

PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

24:BACHHU SARKAR
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

25:TAPAN KR. DAS
KHALASI
PRESENTLY PROMOTED TO THE POST OF SECTIONAL ASSTT.
OFFICE OF THE EXECUTIVE ENGINEER (PHE)
DHUBRI DIVISION
BILASIPARA
P.O. BILASIPARA
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR. CHARAN DEKA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 07/02/2022

Heard Mr. Charan Deka, learned counsel appearing for the writ petitioner. Also heard Mr. R.R. Gogoi, learned Standing Counsel. PHE Department, Assam and Mr. S.S. Roy, learned Government Advocate, Assam, appearing for the official respondents.

The petitioner's case, in brief, is that he was appointed as a Grade-IV Peon in the PHE

department on 01/08/1987 and since then, he has completed more than 34 years of continuous service. As per the Service Rules, the petitioner is entitled to be promoted to a Grade-III post. According to the petitioner, two posts of Sectional Assistant (Grade-III) are reserved for being filled up by promoting Peon. Accordingly, a DPC was held, wherein the name of the petitioner was recommended at Sl. No. 1. Notwithstanding the same, by issuing the impugned order (Annexure-11) dated 26/02/2021, the respondents have promoted 18 Grade-IV candidates by dropping the name of the petitioner from the select list. Aggrieved thereby, the present petition has been filed.

Mr. Gogoi, learned Standing Counsel, PHE Department, Assam, prays for four weeks time to obtain instruction and file affidavit.

In view of the above, issue notice of motion returnable on 28/03/2022.

Mr. S.S. Roy, learned Government Advocate, Assam, has appeared and accepted notice on behalf of the respondent no.1, whereas Mr. Gogoi, learned Standing Counsel, PHE Department, Assam, accepts notice on behalf of the respondent nos. 2, 3, 4 5 and 7 and Mr. S. Bora, learned Standing Counsel, BTC has accepted notice on behalf of the respondent no. 6. As such, service of notice upon the respondent nos. 1 to 7 is deemed to be complete in this case. Extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel(s) within one week from today.

Petitioner to take steps for service of notice upon the remaining respondents by registered post with A/D within one week from today.

Heard on the prayer of interim relief.

Considering the facts and circumstances of the case, it is hereby provided that the department shall not issue any further order of promotion to the post of Section Assistant from Grade-IV post, without obtaining the leave of this Court.

It is also made clear that impugned order dated 26/02/2021 would be subject to the outcome of this writ petition.

List this case again on 28/03/2022 as a fixed item.

JUDGE

sukhamay

Comparing Assistant