

GAHC010134852018



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

Case No. : WP(C) 4302/2018

1:SWAPAN KR. DAS AND 4 ORS.
S/O- RABINDRA KR DAS, R/O- BANAMALI ROAD, KARIMGANJ, P.O AND
DIST- KARIMGANJ, ASSAM

2: BIDHU BHUSAN DAS
S/O- LATE BARINDRA DAS
R/O- MAIN ROAD
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM

3: HRITENDRA BISWAS
S/O- SANTI LAL BISWAS
R/O- L B ROAD
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM

4: ASHUTOSH DAS
S/O- LATE SANTOSH DAS
R/O- SUBHASNAGAR PWD (COLONY)
DIST- KARIMGANJ
ASSAM

5: PRANAB SHUKLA
S/O- PIYARI MOHAN SUKLA
NAYABARI
TILABAZAR
DIST- KARIMGANJ
ASSA

VERSUS

1:THE STATE OF ASSAM AND 5 ORS

REP. BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT OF
ASSAM, PUBLIC WORKS DEPTT, DISPUR, GUWAHATI- 06

2:THE CHIEF ENGINEER PWD (ROADS)
ASSAM
CHANDMARI
GHY- 03

3:THE SUPERINTENDING ENGINEER
PWD (ROADS)
CACHAR CIRCLE
SILCHAR
DIST- CACHAR
ASSAM

4:THE EXECUTIVE ENGINEER
PWD
KARIMGANJ RURAL ROADS DIV
KARIMGANJ
DIST- KARIMGANJ
ASSAM

5:PRANAB RANJAN DHAR
S/O- LATE PRANESH CH DHAR
C/O- OFFICE OF THE ASSTT EXECUTIVE ENGINEER PWD (RR)
SUBDIVISION
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM
PIN- 788710

6:SANJOY ROUTH
S/O- LATE SHYAMLAL ROUTH
R/O- SUBHASNAGAR PWD COLONY
P.O AND DIST- KARIMGANJ
ASSAM
PIN- 78871

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09.07.2018

Heard Mr. M Dutta, learned counsel for the petitioners and Mr. D Nath, learned counsel for the respondent Nos.1 to 4.

The petitioners herein are serving as Grade-IV employees under the PWD (Roads), Division, Karimganj. The petitioners are aggrieved with the impugned order dated 6.12.2017 issued by the Commissioner & Special Secretary, PWD (Road) by which the petitioners were denied their promotion to the posts of Grade-III which they are entitled to in terms of the Assam Ministerial District Establishment Service Rules, 1967 on seniority-cum-merit basis in the ratio of 90:10. In this regard, this Court earlier on 3.11.2015 while disposing of WP(C) 5606/2010 preferred by the petitioners have specifically directed the respondents herein to work out the year wise vacancies and thereafter, to fill up the vacancies by applying the ratio of 90:10 and in accordance with the provisions contained in said 1967 Rules, observing that the post of Section Assistant will also to be included in Grade-III posts along with the post of LDAs (Junior Assistant) with further observation that only after the proportion of vacancies to be filled up by the said ratio is worked out, the respondents shall proceed to fill up the said posts in the manner indicated in the said order dated 3.11.2015.

However, before the said order dated 3.11.2015 was passed by this Court in WP(C) 5606/2010, said 1967 Rules was amended w.e.f. 16.10.2015, wherein amongst others, the minimum educational qualification has been amended from High School Leaving Certificate Examination passed to the course of degree examination passed in any discipline and in the impugned order dated 6.12.2017 it is specified that as the petitioners herein are not graduate, their cases could not be considered for promotion to the post of Section Assistant as provided in the said 1967 Rules. At the same time, by the said impugned order dated 6.12.2017 the respondents contemplated to promote 2 such Grade-IV employees to the post of Grade-III, Section Assistant under PWD (Road) Division, who are graduates and junior to the petitioners. Hence, this writ petition.

Issue Notice, returnable by **20.8.2018.**

As Mr. D Nath, learned counsel accepts notice on behalf of all the respondents, no formal notice need be issued to them.

Petitioners shall furnish extra copies of the writ petition along with the annexures appended thereto to Mr. D Nath within two days from today.

Promotion of the respondent Nos.5 and 6 to the post of Grade-III in the PWD (Road) Division in the district of Karimganj shall be subject to the outcome of this writ petition.

JUDGE

Comparing Assistant