

GAHC010022122018



2026:GAU-AS:8679

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

Case No. : WP(C)/703/2018

JUNAS DAIMARI AND ANR
S/O LATE TIMOTHY DAIMARI, R/O VILLAGE KADAMGURI, P.O KABIALI,
DIST. UDALGURI, BTAD, ASSAM

2: MWNSWMA BORO
S/O- LATE GABKHIRAO BARO
R/O- VILL- KHASIACHUBA
P.O- KHAGRABALI
DIST- UDALGURI
BTAD
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR, GUWAHATI,
ASSAM, PIN- 781006

2:THE BODOLAND TERRITORIAL COUNCIL
REP. BY THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM
PIN- 783370

3:THE JOINT SECRETARY
HEALTH AND FAMILY WELFARE DEPTT.
BTC
KOKRAJHAR
ASSAM
PIN- 783370

4:THE DIRECTOR OF HEALTH SERVICES

BTC
KOKRAJHAR
ASSAM
PIN- 783370

5:THE JOINT DIRECTOR
OF HEALTH SERVICES
UDALGURI
DIST- UDALGURI
BTAD
ASSAM
PIN- 78450

Advocate for the Petitioner : MRS. A BUJARBARUAH, MS. D. BUJARBARUAH,MS. R
BORGOHAIN

Advocate for the Respondent : SC, HEALTH, SC, BTC

Linked Case : WP(C)/7194/2017

BHARAT CH. BARUAH
S/O. LT. GUNA RAM BARUAH
R/O. VILL. MADALI GAON
P.O. DALLANGHAT
DIST. UDALGURI B.T.A.D
ASSAM.

VERSUS

THE STATE OF ASSAM and 5 ORS
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM
HEALTH and FAMILY WELFARE DEPTT.
DISPUR
GUWAHATI
ASSAM
PIN-781006.

2:THE BODOLAND TERRITORIAL COUNCIL

REP. BY THE PRINCIPAL SECRETARY
B.T.C.
KOKRAJHAR

ASSAM
PIN-783370.

3:THE JOINT SECRETARY
HEALTH and FAMILY WELFARE DEPTT.
BTC

KOKRAJHAR
ASSAM
PIN-783370.

4:THE DIRECTOR OF HEALTH SERVICES
BTC

KOKRAJHAR
ASSAM
PIN-783370.

5:THE JT. DIRECTOR OF HEALTH SERVICES
UDALGURI

DIST. UDALGURI B.T.A.D.
ASSAM
PIN-

6:THE CHIEF MEDICAL OFFICER
UDALGURI

DIST. UDALGURI B.T.A.D.
ASSAM
PIN-

Advocate for : MS.A BARUAH
Advocate for : SC
HEALTH appearing for THE STATE OF ASSAM and 5 ORS

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 16.06.2026

Heard Ms. A. Buzarbaruah, learned counsel, appearing for the petitioners. Also heard Ms. S. Sarma, learned Standing Counsel, Health & Family Welfare Department, appearing for the respondent no.1; Ms. S. Bhuyan, learned Senior Counsel and Standing Counsel, BTC, assisted by Ms. R. Saloi, learned counsel, appearing for the respondent nos.3, 4 and 5.

2. The petitioners in the above noted 02 (two) writ petitions, have by way of instituting the said writ petitions prayed for a direction upon the respondent authorities for consideration of their cases for promotion to the Grade-III posts by reckoning the services rendered by them since 1994, 1998 and 1990, respectively.

3. The issues involved in the above noted writ petitions being similar, with the consent of the learned counsel for the parties, the same were taken up for final consideration analogously and is been disposed of by this order.

4. The petitioners in the above noted writ petitions have projected that the petitioner no.1 in WP(C).No.703/2018 was temporarily appointed as a Grade-IV, Chowkidar vide an order dated 11.03.1994, issued by the Joint Director of Health Services, Darang, Mangaldoi. The services of the petitioner no.1 in WP(C).No.703/2018, was thereafter, regularized vide an order dated

17.06.1994. The petitioner no.2 in WP(C).No.703/2018, was initially appointed as a sweeper on temporary basis for a period of 90 (ninety) days vide an order dated 26.10.1998. The services of the petitioner no.2 in WP(C).No.703/2018 thereafter, regularized vide an order dated 22.02.1999, and it is projected that the petitioners in WP(C).No.703/2018, were continuing in their respective services, thereafter. The petitioner in WP(C).No.7194/2017, was initially appointed as a Grade-IV employee on temporary basis vide an order dated 18.04.1990. The services of the petitioner was thereafter confirmed vide an order dated 07.12.1999 w.e.f. 01.11.1999 and is thereafter, continuing in his services.

The petitioner in WP(C).No.7194/2017, being aggrieved by his non promotion, had initially approached this Court by way of instituting a writ petition being WP(C).No.5232/2008.

A Co-ordinate Bench of this Court vide order dated 15.06.2011, had disposed of the said writ petition, requiring the BTC authorities to pass appropriate orders upon considering the grievance of the petitioner. It was further provided that if the petitioner was superseded in the matter of promotion his grievance may be redressed by considering his case applying the principle of "Next Below Rule. The petitioners in the above noted writ petitions, not being further considered for promotion to the next higher grades, have instituted the above noted writ petitions.

5. I have heard the learned counsel for the parties and also perused the materials brought on record.

6. In the above noted writ petitions, the petitioners have claimed for promotion to the post of Surveillance Worker, Vaccinator and Non Medical Assistant.

7. The respondents have contended that the said claim of the petitioners would not mandate a consideration, inasmuch as, the said posts are all direct recruitment post, covered by a set of service orders known as the "Assam Vector Borne Disease Control Programme Workers Service Orders, 2006". This Court has examined the said issue and has found that the posts of Surveillance Worker, Vaccinator and Non Medical Assistant, are all technical posts and the same are to be so filled under the Service Orders, holding the field, by way of direct recruitment. Accordingly, the claim of the petitioners for promotion against the said post would not mandate a consideration.

8. The petitioners are found to be holding grade –IV post, the promotion of the petitioners would be governed by the provisions of "Assam Ministerial District Establishment Service Rules, 1967". Rule 6 of the said Rules of 1967, provides for the manner of recruitment to the post of Junior Assistant in District Level establishments.

9. A perusal of Rule 6 (b) would go to reveal that Grade- IV staff who have a degree qualification and have rendered atleast 07 (seven) years of

continuous service in the district establishment, on the 1st day of the year in which the selection was made, are eligible for being considered for promotion against the post of Junior Assistant to the extent of 10 % of the cadre strength of the post of Junior Assistant, in the establishment concerned. It is to be noted that the petitioner no.1 in WP(C).No.703/2018, and the petitioner in WP(C).No.7194/2017, do not have a degree qualification. The petitioner no.2 in WP(C).No.703/2018, has the degree qualification.

10. The respondent authorities by way of filing an affidavit in the matter, have placed on record that the Departmental Promotion Committee, had considered the cases of the petitioners in the above noted 02 writ petitions for promotion in terms of the provisions of Rule 6 (b) of the said Rules of 1967. On such consideration, the petitioner no.1 in WP(C).No.703/2018 and the petitioner in WP(C).No.7194/2017, were found to be not eligible for being promoted on account of the fact that they did not possess a degree qualification. On a consideration of the case of the petitioner no.2 in WP(C).No.703/2018, the Departmental Promotion Committee, had found that the said petitioner to be eligible and suitable for promotion to any Grade-III posts. The above consideration made by the Departmental Promotion Committee, in the considered view of this Court is in connosance with the provisions of Rule 6 (b) of the Service Rules of 1967, and the findings as arrived at by the Departmental Promotion Committee of the petitioner no.1 in

WP(C).No.703/2018, and the petitioner in WP(C).No.7194/2017, to be not eligible for such promotion in the considered view of this Court is not erroneous. Accordingly, the claims made by the said petitioners in the above noted writ petitions would not mandate an acceptance.

11. With regard to the petitioner no.2 in WP(C).No.703/2018, the said petitioner is found to have completed more than 07 (seven) years of service as a Grade-IV employee and also to possess a degree qualification and accordingly, he is entitled to be considered for promotion to the Grade-III posts. The Departmental Promotion Committee, having considered the case of the petitioner no.2, in WP(C).No.703/2018 and found him suitable, the respondent authorities are directed to promote the petitioner no.2 WP(C).No.703/2018, against an available vacant post within a period of 01 (one) month from the date of receipt of a certified copy of this order.

12. With the above observations and directions, the above noted writ petitions stand disposed of.

JUDGE

Comparing Assistant