

GAHC010151752023



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

Case No. : WP(C)/3985/2023

OLI ULLAH
S/O LATE HABI ULLAH,
R/O HOUSE NO. 10, JYOTINAGAR, GUWAHATI- 781021.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM,
FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT, ROOM NO. D415,
D- BLOCK, 4TH FLOOR, ASSAM SECRETARIAT, JANATA BHAWAM, DISPUR,
GUWAHATI- 6.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
THE FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT
ROOM NO. 415
A- BLOCK
4TH FLOOR
ASSAM SECRETARIAT
JANATA BHAWAM
DISPUR
GUWAHATI- 6.

3:THE COMMISSIONER
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS AND LEGAL METROLOGY
R.K MISSION ROAD
P.O.- ULUBARI
DIST.- KAMRUP (M)
PIN- 781007.

4:BIPIN CHANDRA CHAKRAVARTY

ASSISTANT DIRECTOR (RETIRED)
DIRECTORATE OF FOOR
CIVIL SUPPLIES
CONSUMER AFFAIRS AND LEGAL METROLOGY
SETHI TRUST BUILDING
OPPOSITE BIG BAZAR
BHANGAGARH
GUWAHATI- 5
ASSAM.

5:BIPUL TALUKDAR
DEPUTY DIRECTOR
DIRECTORATE OF FOOR
CIVIL SUPPLIES
CONSUMER AFFAIRS AND LEGAL METROLOGY
SETHI TRUST BUILDING
OPPOSITE BIG BAZAR
BHANGAGARH
GUWAHATI- 5
ASSAM

Advocate for the Petitioner : MR. U K NAIR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 17/07/2023

Heard Mr. U. K. Nair, learned senior counsel assisted by Mr. A. Boro, learned counsel for the writ petitioner.

The petitioner is presently serving as Superintendent, Food and Civil Supplies Department, Government of Assam. Aggrieved by the non-consideration of his case for promotion to the rank of Assistant Director, Food & Civil Supplies Department with effect from the date when his juniors i.e. the respondent nos. 4 & 5 were promoted, the instant writ petition has been filed seeking a Writ of Mandamus.

Although there has been some delay in institution of the writ petition yet, in view of the reasons of delay stated by the petitioner, I am inclined to condone the delay in the matter.

Law is firmly settled that the right to be considered for promotion is a fundamental right. Therefore, if the departmental authorities refuse due consideration of candidature for promotion of eligible candidate, without following the procedure prescribed by law, consequential orders must follow.

Since the petitioner is due for retirement with effect from 31/07/2023, this matter calls for urgent consideration by this Court.

As such, issue notice returnable on 31/07/2023.

Mr. D. Bora, learned Government Advocate, Assam, has appeared and accepted notice on behalf of the respondent nos. 1, 2 & 3. As such, no formal notice is required to be sent to the said respondents. However, extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel within three days from today.

Considering the nature of grievance expressed in this writ petition, I am not inclined to pass any order for service of notice upon the respondent nos.4 and 5 at this stage.

Let this case be listed again on 31/07/2023, as a fixed item.

On the next date fixed, the learned departmental counsel to obtain written instruction indicating the reasons as to why, the petitioner's case was not considered for promotion along with his juniors.

It is also made clear that pendency of the writ petition shall not be a bar for the authorities to redress the grievance of the petitioner, in accordance with law, if so advised.

JUDGE

sukhamay

Comparing Assistant