

GAHC040011702023

2026:GAU-AP:191-DB



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

Case No. : WA/24/2023

Mumsu Borang
Daughter of Late Kolet Borang, Presently posted at Office of the Elementary
Education, Itanagar PO/PS Itanagar, District Papum Pare Siang, Arunachal Pradesh,
Mobile No. 9436048826

VERSUS

THE STATE OF AP and 3 Ors.
Represented by the Chief Secretary, Govt. of AP, Itanagar.

2:the Secretary
Age: 0
Occupation :
Education
Govt. of Arunachal Pradesh
Itanagar.

3:the Director
Age: 0
Occupation :
of School Elementary Education
Govt. of Arunachal Pradesh
Itanagar.

4:Phool Kumari Tanga (Assistant)
Age: 0
Occupation :
Office of the Elementary Education
Itanagar
PO/PS Itanagar
District Papum Pare
Siang
Arunachal Pradesh

Advocate for the Petitioner : Uttam Deka, Tame Rimi, N Maj, Maji Dui, M Tunar, Bomyom Ori, N Rama, A Saring, Chorpok Modi

Advocate for the Respondent : GA (AP), Taba Tagum, Marto Kato, SC (Education), Tagum Jamoh

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE
HON'BLE MR. JUSTICE BUDI HABUNG

Date on which judgment is reserved : 19.02.2026

Date of pronouncement of judgment : 27.02.2026

Whether the pronouncement is of the
Operative part of the judgment : N/A

Whether the full judgment has been
Pronounced : Yes

Judgment & Order (CAV)

(Kardak Ete, J)

Heard Mr. C. Modi, learned counsel for the appellant. Also heard Mr. N. Ratan, learned Additional Advocate General for the respondent No. 1; Mr. T. Tagum, learned Standing counsel, Education Department for the respondent Nos. 2 & 3 and Mr. M. Kato, learned counsel for the respondent No. 4.

2. This intra Court appeal is directed against the judgment and order dated 12.06.2023 passed by the learned Single Judge in WP(C) No. 516/2019, whereby, the writ petition has been dismissed holding that the petitioner/appellant could not submit the required documents before the

meeting of the DPC held on 07.06.2018 for consideration for promotion to the post of Assistant in the Department of Elementary Education.

3. Brief Facts of the Case:

(i). The appellant/petitioner, *Smti Mumsu Borang*, has been serving in the post of Upper Division Clerk (UDC) in the Education Department since 17.12.2004. The post of UDC is a feeder post for promotion to the post of Assistant. The petitioner's educational qualification is Class XII passed, an educational qualification required for promotion to the post of Assistant under the Recruitment Rules at the relevant time.

(ii). In the year 2018, two posts of Assistant fell vacant. The Department issued notices seeking submission of relevant documents from all eligible candidates in the feeder cadre, including the petitioner, whose name appeared at Sl. No. 2 in the seniority list of UDCs. The DPC meeting was held on 07.06.2018. However, the case of the petitioner was not recommended for promotion by the DPC on the ground that she had submitted only her Class XII certificate and no other documents. On the basis of the DPC's recommendation, the private respondent No. 4, whose name was at Sl. No.3 in the seniority list, was promoted on 01.03.2019, as she had graduate degree and other related documents found to be valid.

(iii). The petitioner contended that, at the time of the DPC meeting, a Graduation/Bachelor degree was not an essential requirement for promotion to the post of Assistant, in view of the temporary suspension of the minimum qualification requirement under Office Memorandum No.AR-74/2013/1258, dated 27.05.2015, which suspended the applicability of

Notification No.AR-74/2013/1258, dated 28.01.2014, prescribing Graduation/Bachelor degree as the minimum qualification for promotion to Group B posts. Being senior in service and within the zone of consideration, she contended that she was entitled to be promoted. Nevertheless, her case was bypassed by the DPC and her junior, respondent No.4, was promoted.

(iv). Aggrieved by the action of the authorities, the petitioner filed WP(C) No. 516/2019 seeking quashing of the promotion of respondent No.4 and for granting her promotion to the post of Assistant, retrospectively from 01.02.2019, the date on which respondent No.4 was promoted.

(v). The respondent authorities contended that the petitioner failed to submit essential documents including APARs/ACRs for the last five years, Vigilance Clearance Certificate, performance reports and educational certificates, despite reminders issued through Departmental Circulars dated 27.03.2018 and 21.05.2018. Consequently, the DPC meeting of 07.06.2018 could not recommend her case and the next eligible candidate in the seniority list, respondent No. 4, was promoted. Subsequently, the petitioner was promoted to the post of Assistant in the DPC meeting held on 25.01.2022, after submission of all necessary documents.

(vi). The learned Single Judge, upon perusal of the pleadings, DPC minutes, departmental records and seniority lists, held that the petitioner had failed to submit the required documents in time. Finding no illegality or infirmity in the promotion of respondent No. 4, the learned Single Judge vide the impugned judgment and order dated 12.06.2023, dismissed the writ petition being devoid of merit.

4. Submission of the learned counsel for the appellant:

(a). Mr. C. Modi, learned counsel for the appellant, submits that the appellant was serving as Upper Division Clerk (UDC) in the Education Department, which is the feeder cadre for promotion to the post of Assistant. In the year 2018, the Department initiated the process of filling up of two vacant posts of Assistant and issued a circular calling for submission of relevant documents from all eligible candidates. Being senior in service and within the zone of consideration, the appellant applied for promotion and submitted all the required documents. Despite her eligibility and submission of documents, the Departmental Promotion Committee (DPC) meeting held on 07.06.2018 did not recommend her for promotion. Instead, a junior, respondent No. 4 was promoted, thereby violating the appellant's right of seniority and entitlement to promotion.

(b). Mr. Modi, learned counsel submits that the Department issued a circular dated 27.03.2018, requiring candidates to submit their educational qualifications, including Graduation/Class XII and Class X certificates, along with APARs/ACRs for the last five years, Vigilance Clearance Certificate. The appellant duly submitted all these documents; yet her case was not considered by the DPC.

(c). Mr. Modi, learned counsel submits that at the relevant time, the requirement of a Graduation or Bachelor's degree as the minimum qualification for promotion to the post of Assistant was temporarily suspended under Office Memorandum No.AR-74/2013/1258 dated 27.05.2015. Accordingly, the appellant was fully eligible for consideration based on seniority and service. The appellant had submitted all other essential documents and documents obtained through RTI establishes that these documents, including ACRs and Vigilance Clearance

Certificates, were in the Department's records, but may have been misplaced or intentionally withheld by the private respondent, who was junior to the appellant and handling the office records at the relevant time. He submits that the appellant had received the Department's circular dated 27.03.2018 and the reminder circular dated 21.05.2018 and had made all reasonable efforts to submit the required documents before the DPC. The vacant post to which the appellant was eventually promoted already existed during 2018 and the Department could have promoted her at that time while preserving the seniority position *vis-à-vis* the private respondent. The failure to do so resulted in a clear deprivation of the appellant's seniority without any fault on her part.

(d). Mr. Modi, learned counsel, submits that the learned Single Judge erred in analyzing the matter by placing undue emphasis on the alleged non-submission of other documents, whereas the Department's communication dated 06.01.2022 clearly shows that the case of the appellant was bypassed solely on the ground of non-submission of the Graduation certificate. The learned Single Judge failed to appreciate that even if the appellant failed to submit the Vigilance Clearance at the time of the DPC, the appellant should have been recommended for promotion under the implementation of the recommendations of DPC in Section 17.1 of Swamy's Handbook on Establishment and Administration, which provides that clearance from the Vigilance Section should be obtained before actual promotion or confirmation. The learned Single Judge did not take into account that the appellant had submitted her documents and overlooked the possibility that the private respondent may have mishandled them, affecting the appellant's seniority. It is submitted that until 06.01.2022, the Department acknowledged that the sole ground for non-consideration was non-furnishing of the Graduation certificate. Any subsequent contention

regarding other documents is arbitrary and unsupported by records. This demonstrates a clear violation of the appellant's lawful right to promotion and seniority.

(e). Mr. C. Modi, learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **P. Sivanandi vs. Rajeev Kumar** reported in **(2017) 4 SCC 579**, to project that although the Annual Confidential Report (ACR) forms an integral part of an officer's service record and is generally required to be placed before the selection or promotion committee for consideration, the failure or delay on the part of the concerned officer in preparing or submitting the ACR cannot prejudice the officer's right to promotion. The Court has clearly held that the prescription for writing and submitting the ACR is merely directory and not mandatory. Therefore, any delay in completion of the ACR, whether due to administrative reasons or procedural lapses, cannot serve as a valid ground to deny consideration for promotion. In the present case, the appellant had submitted all relevant documents except that were not mandatory at the time and therefore, any alleged non-availability of APARs/ACRs at the time of the DPC cannot be a justification for bypassing her seniority or right to promotion.

(f). In view of the above, Mr. Modi, learned counsel submits that the impugned judgment and order dated 12.06.2023 suffers from manifest errors of fact and law. Therefore, same may be set aside and quashed and grant appropriate relief to the appellant.

5. Submissions of the learned counsel for the respondents:

(a). Mr. T. Tagum, learned Standing Counsel for the Education Department,

submits that the appellant, being within the zone of consideration, her case was considered by the DPC meeting held on 07.06.2018. However, she could not be recommended for promotion to the post of Assistant because she had not submitted all essential documents, including her educational qualifications (Graduation/Class XII and Class X certificates), APARs/ACRs for the last five years, Vigilance Clearance Certificate and the performance report for contingency LDC. The appellant had been duly notified through departmental circulars dated 27.03.2018 and 21.05.2018, but failed to submit required documents within the prescribed deadline. Consequently, the DPC, following proper procedure, recommended the next eligible candidate in seniority, i.e. respondent No.4, for promotion.

(b). Mr. Tagum, learned Standing Counsel, submits that according to the Receipt Book, the appellant submitted her ACRs only on 10.06.2019 for the years 2014–2018 and 2018–2019. Entries in the Peon Book confirm that she received the departmental circulars and the relevant departmental files substantiate that the minutes of the DPC meeting of 07.06.2018 accurately record that the appellant's case could not be considered due to non-submission of required documents. The letter dated 04.06.2018, produced by the appellant claiming submission of her documents, bears no seal or signature acknowledging receipt by the Department and therefore cannot be relied upon. Mr. Tagum submits that no illegality has been committed in the conduct of the DPC and promotion of the respondent No.4 was fully in accordance with the rules.

(c). Mr. Tagum, learned Standing Counsel for the Education Department, submits that in the subsequent DPC meeting held on 25.01.2022, the appellant submitted all required documents and was promoted to the post of Assistant

with effect from 04.02.2022. This demonstrates that the authorities acted fairly and in accordance with established procedures and that the non-promotion of the appellant earlier in 2018 was solely due to her failure to submit the requisite documents within the required time.

(d). Mr. T. Tagum, learned Standing Counsel, submits that the promotion of respondent No.4 was made in accordance with the proper procedure of the DPC and there was no illegality or irregularity in the process. In support of his submission, he relies on the judgment of the Supreme Court in ***Union of India & Anr. v. S. K. Goel & Ors.*** reported in **(2007) 14 SCC 641**, wherein it was held that ordinarily courts should not interfere with DPC proceedings unless there is gross violation of rules or mis-grading of confidential reports. The Court also emphasized that seniority and promotion granted on the strength of DPC selection should not be unsettled after a lapse of time, and the DPC has full discretion to assess candidates objectively based on merit. He submits that the claim of the appellant therefore deserves to be rejected and as such, prays for dismissal of the appeal.

(e). Mr. M. Kato, learned counsel for respondent No. 4, submits that though the appellant contends that her seniority was considered by the DPC meeting held on 07.06.2018, it appears that due to her own failure to submit the required documents for consideration, she could not be promoted to the post of Assistant. Having failed to produce the necessary educational certificates, APARs/ACRs, and Vigilance Clearance, the appellant cannot now challenge the promotion of respondent No.4. He submits that respondent No.4 was within the zone of consideration and had fulfilled all eligibility requirements, and was rightly promoted on the basis of the DPC's valid recommendation. He

accordingly prays for dismissal of the appeal.

6. We have considered the submissions advanced by the learned counsel for the parties and also perused the materials available on record including the judgment and order dated 12.06.2023.

7. The DPC meeting was held on 07.06.2018 for promotion to the posts of Assistant, UDC, and LDC in the office of the Director of Elementary Education. Three persons, including the appellant and respondent No. 4, were considered for promotion to the post of Assistant from the feeder cadre of UDC. Upon consideration, the senior most in the seniority list and respondent No. 4, who was at Serial No. 3, were recommended for promotion, having been found to possess the required educational qualifications, years of service as UDC and other relevant documents in order.

8. A perusal of the seniority list of UDC reveals that the appellant was at Sl. No. 2, while respondent No. 4 was at Sl. No. 3. The minutes of the DPC meeting held on 07.06.2018 indicate that the senior-most officer, *Smti Yepya Gohain* (Sl. No. 1), was promoted first. The DPC then considered the appellant's case, recording as follows:

"Smti Mumsu Borang, Second Senior UDC who has completed 14 years of service in the grade was directed to submit Educational Qualification and NOC/Vigilance Clearance for 2 times in terms office memorandum vide No.AR-74/2013, Dtd. 28.01.2014 and 27.05.2015, regarding fixation of graduation/Bachelor Degree as basic education qualification for promotion Group 'B'. Smti Mumsu Borang, UDC submitted a xerox copy of Class-XII pass certificate only but she fails to submit the required educational qualification and others. Therefore, the Board did not recommend her case for promotion".

9. The DPC noted that the appellant had been directed on two occasions to

submit her educational qualifications, along with the No Objection Certificate (NOC) and Vigilance Clearance, in terms of the OMs dated 28.01.2014 and 27.05.2015, which required a Graduation/Bachelor's Degree as the minimum educational qualification for promotion. However, the appellant only submitted a Xerox copy of her Class XII pass certificate and failed to submit the necessary educational qualification and other supporting documents. The DPC then considered respondent No. 4, who possessed a Graduate degree and whose other documents were in order and recommended her promotion to the post of Assistant.

10. Although the appellant contends that she submitted the requisite documents pursuant to the circular dated 21.05.2018 and a letter dated 04.06.2018, there is no proof of receipt by the respondent authorities, as the letter bears neither seal nor signature. The Peon Book and departmental files confirm that the appellant's case could not be considered due to non-submission of essential documents. The appellant contends that her seniority was affected by the DPC meeting held on 07.06.2018, but it is clear that her failure to submit the necessary documents was the reason she was not promoted to the post of Assistant.

11. The rules governing appointment and promotion to the post of Assistant are regulated by *the General Arunachal Pradesh Group 'C' (Ministerial) Common Recruitment Rules, 2008*. The Rule provides that the post of Assistant shall be filled 75% by promotion, failing which by transfer on deputation, and 25% through a limited departmental competitive examination. In the absence of sufficient candidates, transfer on deputation may be considered. Further, 25% of the cumulative total vacancies of the post across all Departments, excluding

the Forest and Engineering Departments, shall be filled by UDCs of the District Ministerial (General) cadre on the basis of merit adjudged through a limited departmental competitive examination. The Rules are silent regarding the educational qualifications for promotion. However, it has been stated at the Bar that the educational qualification required for appointment to the post of UDC is taken as the educational qualifications for promotion to the post of Assistant, at the relevant time.

12. The State of Arunachal Pradesh, by its Executive Order vide Office Memorandum dated 28.01.2014, fixed the minimum educational qualification for appointment to Group-B and Group-A posts/services, whether by direct recruitment or promotion, as a Graduation/Bachelor's Degree from a recognized University. However, by a subsequent Office Memorandum dated 27.05.2015, the requirement of a Graduation/Bachelor's Degree for appointment to Group-A posts/services, either by direct recruitment or on promotion, was temporarily suspended for a period of four years. During this period, government servants who did not possess a Graduation/Bachelor's Degree were allowed to acquire or secure the said educational qualification.

13. On consideration of the records, since the requirement of Graduation/Bachelor degree for direct recruitment and promotion vide OM dated 28.01.2014 was suspended for 4 (four) years from the date of issue of the OM, which was to be reintroduced after the expiry of the 4 (four) years period, the DPC having been held on 07.06.2018 and in view of the suspension of the said OM dated 28.01.2014, we find substance in the submission of the learned counsel for the appellant that the Bachelor degree was not required, as the expiry period of four (4) years would be in 2019. However, we notice that the

rejection is not only with regard to non-submission of the Graduation/Bachelor degree, but also due to the non-submission of the required documents such as the No Objection Certificates (NOCs)/Vigilance Clearance or APARs/ACRs, which admittedly appears to have been not submitted. It is also discernible from the APARs/ACRs annexed to the writ appeal that the same pertains to the period from 2013–14 up to 2020–21. The requirement was for a period of 5 (five) years, i.e., from 2012–13, as the DPC was conducted on 07.06.2018. Thus, the APAR/ACR was submitted subsequent to the impugned DPC meeting for the next DPC and the appellant has since been promoted on the basis of those records.

14. Regards being had to the judgment in the case of **P. Sivanandi** (supra) relied on by the learned counsel for the appellant, we find that the same does not advance the appellant's case, as it dealt with a delay in writing the ACR. In that case, it was found that the ACR of the employee was written and reviewed by his superior authorities after considerable delay, which was beyond the employee's control. Therefore, the delay could not disadvantage the employee. The Court also held that since the delay in writing and reviewing the ACR was not attributable to the employee, there was no rational basis to disadvantage him. However, this principle is not applicable in the present case, as the appellant's failure to submit the required documents was within her control. Consequently, the appellant's reliance on this case is misplaced, as the facts of this matter are distinctly different.

15. So far as the case law relied upon by the learned counsel for respondent Nos. 2 & 3 is concerned, there is no dispute with the well-established principle that, ordinarily, the Court will refrain from interfering with the proceedings and

recommendations of the DPC, unless it is shown that such meetings were conducted illegally, in clear violation of standing government instructions and rules, or involved misgrading of confidential reports. This principle, would be applicable in the present case as no such violation or irregularity has been demonstrated and the appellant has failed to substantiate any claim of procedural impropriety.

16. Having considered above, we find that no illegality has been committed by the DPC in the meeting held on 07.06.2018. The DPC did, in fact, consider the case of the appellant, but she could not be recommended for promotion to the post of Assistant due to the non-submission of required documents. Accordingly, the DPC rightfully recommended the next eligible candidate in the seniority list. In the subsequent DPC meeting on 25.01.2022, the appellant submitted the required documents and was promoted, which demonstrates that the authorities have acted in accordance with rules and fairness.

17. In view of the discussions made hereinabove, we find no infirmity in the judgment and order dated 12.06.2023 passed by the learned Single Judge in WP(C) No. 516/2019. Accordingly, this writ appeal stands dismissed.

JUDGE

JUDGE

Comparing Assistant