

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 31 OF 2004

N.C. DAS

Petitioner(s)

VERSUS

GAUHATI HIGH COURT THR. REGISTRAR & ORS.

Respondent(s)

(With appln(s) for directions and office report)

Date: 07/10/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.M. PANCHAL
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Manoj Swarup, Adv.
Mr. Hiren Dasan, Adv.
Mr. Dharendra Kr. Mishra, Adv.
Mrs Sarla Chandra, Adv.

For Respondent(s) Mr. Vijay Hansaria, Sr. Adv.
Mr. P.I. Jose, Adv.
Ms. Sneha K., Adv.

Mr. Gopal Singh ,Adv
Mr. Ambrish Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

By filing this Petition under Article 32 of the Constitution, the petitioner has challenged the validity of the provisio to sub-Rule 1 of Rule 7 of the Tripura Judicial Services Rules, 2003 on the ground that no suitability test as commanded by this Court in All India Judges' Association & Ors. Vs. Union of India & Ors. (2002) 4 SCC 247 is prescribed. The petitioner has further prayed to declare that promotions of respondent Nos.4 to 7 without their going through the suitability test are illegal. Other consequential prayers are also made to which it is not

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necessary to make reference at this stage.

It may be mentioned that during the pendency of the Petition, the petitioner filed I.A. No.3 of 2005 and prayed to quash the memo dated 7.6.2005 issued by the Gauhati High Court and consider the case of the petitioner for benefits of ACP in accordance with the recommendations of Shetty Commission Report which was accepted by this Court in All India Judges' Association case (supra). The order sheet indicates that on 15.4.2005, this Court passed the following order -

"Perused the statement made in para 4 dated 24.12.2004 filed by the petitioner.

We clarify that the pendency of this petition shall not come in the way of the High Court for giving benefit under the Scheme relating to Assured Career Progress to the petitioner if he is found entitled to it de hors the pendency of this petition."

The record shows that the case of the petitioner was considered by the High Court relating to his

entitlement to the benefit under the scheme relating to Assured Career Progress and by communication dated 7.6.2005, the petitioner was informed that after overall re-assessment and reconsideration, he was not found eligible for benefit under the said Scheme. The learned counsel for the petitioner, therefore, prays to adjourn the matter to enable the petitioner to challenge the said decision taken by the Gauhati High Court. On instructions, the learned counsel states at the Bar that though the petitioner has retired in the year 2006 as Civil Judge, Sr. Division and Assistant Sessions Judge, Grade II, he has not been paid his retiral benefits including pension. If that is so, the High Court may look into the question and pass appropriate orders for grant of retiral benefits if he

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is otherwise entitled to the same. This may be done as early as possible and without any avoidable delay.

Having regard to the facts of the case, the matter is adjourned by six weeks to enable the petitioner to challenge the order by which benefit under Assured Career Progress is denied to him.

(Neetu Sachdeva)
Sr. P. A.

(Sneh Bala Mehra)
Court Master