

(2021) 06 GAU CK 0141

Gauhati High Court

Case No: Writ Petition (Civil) No. 3072 Of 2021

Akbar Hussain
Mazumder

APPELLANT

Vs

State Of Assam And 7
Ors

RESPONDENT

Date of Decision: June 24, 2021

Acts Referred:

- Constitution Of India, 1950 - Article 226

Hon'ble Judges: Kalyan Rai Surana, J

Bench: Single Bench

Advocate: Dr. B Ahmed

Judgement

Heard Dr. B. Ahmed, learned counsel for the petitioner and Mr. D. Nath, learned Addl.

Senior Govt. Advocate for the State respondent nos. 1 to 3.

The present writ petition under Article 226 of the Constitution of India has been instituted by the petitioner, who is holding the post of Executive

Engineer has challenged the legality of the notification dated 28.05.2021 issued by respondent no.1 by virtue of which the private respondent nos. 4 to

8 have been given promotion to the next higher post of Superintending Engineer in the PWD.

The learned counsel for the petitioner submits that the authorities have ignored the seniority of the petitioner. It is also submitted that according to the

rule, the promotion to the private respondent nos. 4 to 8 was discriminatory, unreasonable, irrational, unfair and perverse exercise of powers. It is also

submitted that the petitioner is due to superannuate on 30.06.2021 and therefore, he expresses some urgency in the matter.

Pursuant to order dated 21.06.2021, the learned Addl. Senior Govt. advocate has submitted that he has received written instruction on 23.06.2021 and

according to which, the provisional Inter-se-seniority list of 25.02.2020 for Executive Engineer (Civil), PWD was finalized vide notification dated

05.05.2021 and the copy of the said instruction along with a copy of the notification dated 05.05.2021 of further gradation list has been produced. The

same is kept on record.

In view of nature of challenge, let a notice returnable on 04.08.2021 be issued.

As the learned Addl. Senior Govt. advocate accepts notice on behalf of respondent nos. 1, 2 and 3, requisite extra copies of the writ petition be

furnished to him within 2 days.

The petitioner shall take steps within 2(two) days for service of notice on the respondent nos. 4 to 8 by registered post with A.D.

In view of the nature of instruction received by the learned Addl. Senior Govt. advocate, the respondent nos. 1 to 3 is directed to file their response by

way of an affidavit prior to the next date fixed.

The Court is inclined to provide that notwithstanding the superannuation of the petitioner on 30.06.2021, in the event the petitioner is succeed in this

writ petition, he would be entitled to all consequential benefit, notionally, as may accrue.

List on 04.08.2021.