

(2007) 05 GAU CK 0024

Gauhati High Court

Case No: Writ Appeal No. 579 of 2005

Agung Lapung

APPELLANT

Vs

State of Arunachal Pradesh and
Ors.

RESPONDENT

Date of Decision: May 21, 2007

Citation: (2008) 1 GLR 91

Hon'ble Judges: Aftab H.Saikia, J and Hrishikesh Roy, J

Bench: Division Bench

Advocate: B.Banerjee, C.Baruah, U.J.Saikia, Advocates appearing for Parties

Judgement

1. Heard Mr. C. Baruah, learned senior counsel assisted by Mr. U.J. Saikia, learned counsel appearing for the appellant. Also heard Mr. B. Banerjee, learned state counsel representing the State of Arunachal Pradesh on behalf of the official respondents.

2. By means of this writ appeal the appellant has assailed the order dated 4.3.2005 passed by this court in Review Petition No. 100/2004.

3. For the sake of convenience the operative part of the order under challenge may be quoted as under:

"In view of this submission, the order dated 25.5.2004 passed in W.P(C) No. 1072(AP)/2001 is modified to the extent that the respondent authority shall first ascertain as to whether it is a single cadre post or not and, then fill up the post as per promotion rules from amongst the eligible candidates. The reservation policy will not apply if it is found to be a single cadre post."

4. The impugned order of review was passed modifying the earlier order dated 25.5.2004 passed in W.P(C)No. 1072(AP)/2001 wherein in paragraph 3 of the said order this court observed as under:

"In view of the limited prayer advanced, this petition is disposed of with a direction to the respondent authority to consider the case of the writ petitioner along with other similarly situated candidates belonging to the A.P.S.T. community for consideration of promotion to the post of Office Superintendent as per 100 point roster system. The respondent authority is called upon to strictly follow the reservation policy and other relevant rules as in force while considering promotion of the eligible Assistants to the post of Office Superintendent including the writ petitioner. The respondents are directed to take an early decision in this behalf."

5. The necessary facts in a nutshell may be noticed:

The appellant who belongs to Arunachal Pradesh Scheduled Tribe Community ("the APST") after initial appointment as Upper Division Assistant ("the UDA") by an order dated 9.11.1992, and subsequent joining in the said post on 1.2.1993, became eligible for promotion to the post of Assistant on completion of three years as a person from APST when the candidates from general category are required to complete at least 5 years service in the UDA for the purpose of consideration for promotion to the post of Assistant. However, the appellant's case went by default in the DPC meeting held on 4.12.1997 and the matter was taken care of by the next DPC which allowed his promotion to the post of Assistant with effect from 4.12.1997. By this time, the appellant has acquired eligibility for consideration of promotion to the post of Office Superintendent against the vacancies reserved for APST candidates as per 100 point roster system. Highlighting such factual situation, the appellant has preferred the related writ petition seeking relief by way of issuance of a direction from this court to the official respondents to hold the DPC meeting for consideration of his case for promotion to the post of Office Superintendent.

6. Taking into consideration the above factual situation and also upon hearing the learned counsel for the parties, the writ court initially passed the order dated 25.5.2004 which was later on by the impugned order dated 4.3.2005 modified to the extent as already quoted above.

7. Having closely considered both the orders as quoted above and also upon hearing the learned counsel for the parties, we are of the view that the reservation policy will not apply if the post of Office Superintendent is found to be a single cadre post. Accordingly, we are in full agreement with findings expressed in the impugned order and as such we find no convincing or cogent reasons to upset the impugned modified order.

8. Be it noted herein that in the instant case the appellant is not barred from getting his case considered as per rules.

9. In the result, this appeal fails and stands dismissed. No costs.