

(2017) 12 GAU CK 0062

GAUHATI HIGH COURT

Case No: 7736 of 2017

THE CENTRAL
BOARD OF
SECONDARY
EDUCATION & ANR.

APPELLANT

Vs

SRI JAGADISH
BARMAN & ANR.

RESPONDENT

Date of Decision: Dec. 13, 2017

Acts Referred:

- Constitution of India, Article 226 - Power of High Courts to Issue certain writs

Hon'ble Judges: Ajit Singh, Manojit Bhuyan

Bench: DIVISION BENCH

Advocate: K Agarwal, S Khound, B Das, Dr. JL Sarkar, GJ Sharma, S Sarma

Judgement

1. This petition under Article 226 of the Constitution is directed against the order dated 20.11.2017 passed by the Central Administrative Tribunal, Guwahati Bench whereby it has allowed respondents" M.A. No. 118 of 2017 and O.A. No.299/2017. The respondents filed O.A. No.299/2017 before the Tribunal seeking following relief:

" Consideration for promotion for vacancies of Deputy Secretary shall be on the basis of correct residency and correct seniority of the incumbents in the feeder cadre i.e. Assistant Secretary after revisit/review as ordered by this Hon"ble Tribunal in order dated 22.9.2017 in O.A. No.83/2016."

2. Along with the Original Application, the respondents also filed M.A. No.118/2017, wherein they prayed for the following relief:-

"In the circumstances explained above the applicant humbly prays that Your Lordships may kindly be pleased to allow the application and direct the respondents not to hold DPC for promotion as Deputy Secretary before finalising the promotion and seniority in the feeder cadre of Assistant Secretary as per the order of Hon"ble Tribunal dated 22.9.2017 in O.A. No.83/2016 and to pass any other order/orders as may be deemed fit and proper in the circumstances of the case."

3. Surprisingly, the Tribunal, without issuing notice and giving any opportunity of hearing to the petitioners, by the impugned order, has allowed not only M.A. No.118/2017, but also O.A. No.299/2017. Aggrieved, the petitioners have rushed to this Court for quashing of the impugned order.

4. The learned counsel for the respondents could not deny the fact that the Tribunal did pass the impugned order without issuing notice and giving any opportunity of hearing to the petitioners. Therefore, such an order cannot be allowed to be sustained. We, accordingly, quash the same and remand the matter to the Tribunal for afresh decision on M.A. No.118/2017 and O.A. No.299/2017 after giving an opportunity of hearing to the petitioners. With the consent of the respective counsel for the parties, we also direct the petitioners that till the decision on M.A. No.118/2017 by the Tribunal, the proposed DPC for promotion of candidates from the post of Assistant Secretary to Deputy Secretary shall not be held.

5. With the above directions, the writ petition stands finally disposed of.