(1)

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA: MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH

Appeal From
Writ Petition (Civil)

WP(C) No. 111 (AP) 2009

Shri Maheranda Kumar Singh & 2 others — **Appellant / Petitioner.**

Versus

The State of AP & 2 others. — **Respondent / Opposite Party.**

Counsel for the Appellant / Petitioner. Mr J. Hussain & Y.K. Singh.

Counsel for the Respondent / Opposite Party. GA AP.

Noting by Officer or Advocate	Serial No.	Date	Office note, reports, orders or proceeding with signature
(1)	(2)	(3)	(4)

IN THE MATTER OF:

1. Sri. Maheranda Kr. Singh (AE),
Department of Power, Government of
Arunachal Pradesh, Itanagar,
Arunachal Pradesh.

2. Sri. Sukhveer Singh (AE),
Department of Power, Government of
Arunachal Pradesh, Itanagar,
Arunachal Pradesh.

3. Sri. Kaushal Kishor Mishra(AE),
Department of Power, Government of
Arunachal Pradesh, Itanagar,
Arunachal Pradesh.

(Common cause of action)

....Petitioners...

-Versus-

1. The State of Aruanchal Pradesh
Represented by Secretary Power,
Govt. of Arunachal Pradesh,
Itanagar.

3. The Chief Engineer (Power) (WEZ), Department of Power, Govt. of Arunachal Pradesh, Itanagar, Arunachal Pradesh.

....Respondents

WP(C) 441 (AP) 2009

BEFORE
THE HON'BLE MR. JUSTICE HRISHIKESH ROY

[17th January, 2011]

Heard Mr. J. Hussain, learned counsel for the petitioners and also heard Mr. R. H. Nabam, learned Senior Govt. Advocate appearing for the State respondents.

2. The three petitioners were appointed as Junior Engineers (J.E.) on 12-07-1979, 25-09-1980 and 13-10-1980 respectively, and were promoted as Assistant Engineers (A.E.) w.e.f. 28-06-1994. Following their promotions, the petitioners are serving as Assistant Engineers in the pay scale of Rs.8000-13,500/- per month in the P.W.D. They seek the benefits of second financial upgradation to the next higher grade, under the Assured Career Progression (ACP) Scheme implemented in the State of Arunachal Pradesh vide Office Memorandum dated 21st November, 2003.

3. According to the condition(s) laid down for grant of benefits under the ACP Scheme, if an employee already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years regular service. Referring to Clause 5.1 of the conditions, Mr. Hussain contends that the petitioners having received only one promotion during over 24 years of their service career, qualify for the second upgradation.

4. Mr. RH Nabam, learned Senior Govt. Advocate, on the other hand, submits that as Assistant Engineer drawing pay scale of Rs.8000- 13,500/- per month, the petitioners are holding Group-'A' post and under Clause

2.1 of the O.M. dated 9th August, 1999 issued by the Govt. of India, Ministry of Personnel, which has been adopted by the State of Arunachal Pradesh, no benefit under the ACP Scheme, is payable for Group-'A' service holders.

5. Mr. Nabam has referred to the O.M. dated 21-05-2007 (Annexure-C) to point out that after clarification on classification of posts under the Govt. of Arunachal Pradesh notified on 31-08-2006, the post carrying pay scale of Rs.8000-13,500/- per month are classified as Group-'A' posts after enhancement of scale of pay from Rs.6,500-10,500/- per month and ACP for such Group-'A' functionaries are not contemplated under the ACP Scheme.

6. The learned Senior Govt. Advocate further submits that after the petitioners were promoted to the cadre of Assistant Engineer, they are yet to complete 24 years of regular service under the ACP Scheme and even on that ground, they are not entitled to any direction for second financial upgradation.

7. It is seen from the Govt. order dated 26th May,1998 that the pay scale of Assistant Engineers have been revised from Rs.6500-10,500/- to Rs.8000-13,500/- per month with effect from 01-04-1998 and it is clear that Assistant Engineers drawing the said pay scale, are classified as Group-'A' employees where reservation ratio of 50:50 is applicable.

8. On reading of the O.M. dated 9th August, 1999 of the Ministry of Personal, Public Grievances and Pensions, Govt. of India, it is apparent that no financial upgradation under the ACP Scheme is envisaged for Group-'A' service

holders. The petitioners categorisation in Group-'A' service is not under challenge in this proceeding.

9. Consequently, it has to be accepted that the petitioners are serving, as Group-'A' employees, under the State of Arunachal Pradesh.

10. Since the benefits under the ACP Scheme are not available for Group-'A' service holders as per O.M. dated 09-08-1999, in my considered view, the petitioners are not entitled to any direction for grant of second financial upgradation under the notified ACP Scheme.

11. Accordingly, this writ petition stands dismissed without any order as to cost.

JUDGE

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