

IN THE GAUHATI HIGH COURT
THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND
ARUNACHAL PRADESH.

BEFORE

HON'BLE MR. JUSTICE P.K.SAIKIA

WP(C) 240 (AP) 2011.

Shri Putul Chandra Deori

Mahadevpur No.II

P.O.Mahadevpur, District Lohit

Arunachal Pradesh

PETITIONER

VERSUS

1.Government of Arunachal Pradesh

Through Chief Secretary

Govt of Arunachal Pradesh

Itanagar, Arunachal Pradesh.

2.Director of Agriculture

Govt of Arunachal Pradesh

Naharlagun, Arunachal Pradesh.

RESPONDENTS.

For the Petitioner :Mr. S.K.Deori, Advocate

For the Respondent 1 & 2 : Mr. R.H.Nabam

Date of hearing & Judgment: 06.08.2014.

JUDGMENT AND ORDER

1. Heard Mr. S.K.Deori, learned counsel for the petitioner and Mr. R.H.Nabam, learned counsel appearing for the respondent No. 1 and 2.

This proceeding has been initiated seeking the following reliefs:

- a) *to issue Rule Nisi to Respondents as to why appropriate writ, order and/or direction should not be issued against respondent No.2 to promote the petitioner to the post and position presently*

hold by fellow officials namely Mr. Tachu Doke, Mr. Tabi Nugso, Mr. Kakol Borang and Mr. Borak Megu with whom the petitioner had done graduation in B.Sc(Hons) Agri. As an in-service Official's nominated and sponsored by Respondent No.2 and belong to Arunachal Pradesh Schedule Tribe as per the record prepared and maintained by Respondent No.2;

- b) to issue Rule Nisi to the Respondents as to why an appropriate order, direction or writ including writ of mandamus/certiorari be not issued against Respondent No.2 for discriminating among officials while giving its officials from Village Level Worker to Extension Officer in the year, 1993 with whom the petitioner is on the same footing;*
- c) to issue Rule Nisi to Respondent No.2 as to why an appropriate order, direction or writs be not issued against Respondent No.2 to count the promotion of the petitioner from village Level Worker Senior (presently) AFA Senior) to Extension Officer (presently ADO) since April, 1993 the date when respondent No.2 promoted its officials from Village Level Worker to Extension Officer, namely Mr. Tachu Doke, Mr. Tabi Nugso, Mr. Kakol Borang and Mr. Borak Megu;*
- d) to issue Rule Nisi to Respondent No.2 as to why an appropriate order, direction or writs be not issued against Respondent No.2 for depriving the petitioner promotion, post, social status, reputation and monetary benefits and violation of the rights given under the Constitution of India and Principles of Natural Justice;*
- e) to make the rule absolute upon return of the Rule and after hearing the parties;*
- f) to pay the net difference of the salary and arrears drawn by the petitioner and the fellow officials and interest @ 12% to the petitioner from the year of the promotion of the fellow officials i.e. April, 1993 till date of actual payment;*
- g) to award compensation for a sum of Rs.1,00,00,000.00 (Rupees One crore) only to the petitioner and against respondents toward*

loss of earning, reputation, position, post, social status, plain and suffering and cost incurred for making representations, travelling and lodging; for adopting unfair and unequal treatment; to discriminate arbitrarily and illegal with whimsical, bias and fanciful motive and for staying away from family for 4 years while studying B.Sc.(Hons) Agri. 4 years Condensed Course from Haryana Agriculture University, Hissar as a Government of Arunachal Pradesh nominee and sponsor in service official;

- h) *to award compensatory costs to the petitioner and against respondents;*
- i) *to pass such other or direction as deemed fit and proper by this Hon'ble Court in the facts and circumstances of the present case”.*

2. The brief facts necessary for disposal of the present proceeding are that the respondent No.2, the Director of Agriculture Govt of Arunachal Pradesh, Naharlagun, appointed the petitioner as Village Level Worker (Junior) temporarily in 1978. Thereafter, in 1988, the respondent No.2 selected some of its officials as in service candidates including the petitioner to undergo 4 years Condensed Course in Haryana Agriculture University, Hissar leading to B.Sc(Hons) (Agri) . In due course, the petitioner had successfully completed his aforesaid degree course and thereafter returned to his own State and joined his original post.

3. On completing the B.Sc (Hons) (Agri) from Haryana University, the petitioner submitted representations requesting the Respondent No.2 to promote him to the post of Extension Officer (re-designated as ADO). In 1993, the Respondent No.2 promoted some officials, namely, Mr. Tachu Doke, Mr. Kakol Borang, Mr. Tabi Nguso and Mr. Borik Megu from Village Level Worker to the post of Extension Officer. It may be stated that all those officials then working as Village Level Worker (Junior). Unfortunately, despite being senior to some of those officials and in spite of his having requisite qualification, the petitioner was ignored in matter of promotion to the post of Extension Officer.

4. It also may be stated that in the State of Arunachal Pradesh, in the matter of promotion and appointment, special treatments are given to the candidates from Arunachal Pradesh Schedule Tribe Community(in short APST). The petitioner belongs to Deori community which is recognized as one of the Arunachal Pradesh Schedule Tribe. Despite he being a member of APST , despite his having the qualification of B.Sc(Hons) (Agri) and despite he being senior to many Village Level Workers(Junior) , he has always been denied promotion to the post of Extension Officer.

5. Being aggrieved, the petitioner preferred various representations before the Respondent No.2 seeking promotion to the post of Extension Officer. But the respondent No.2 never considered his case for promotion. Finding no other alternative, the petitioner has approached this Court by way of present writ petition seeking relief as aforesaid.

6. The notice of the proceeding was served on the respondent No. 1 and 2. Accordingly, the respondents have entered appearance and contested the proceeding having filed counter affidavit. In their counter affidavit, it has been stated that the claim of the petitioner that he is a member of APST has not yet been settled since the Government of Arunachal Pradesh has not yet declared "Deori " community as APST in the State of Arunachal Pradesh. Situation being such, the benefit, earmarked for APST candidate cannot be extended to the petitioner.

7. It is also the case of the State respondents that the petitioner claims that he has completed B.Sc (Hons) (Agri) from Haryana University, Hissar has not yet been accepted by the authority concerned since he had never submitted the original certificate to confirm his claim that he had passed the B.Sc.(Hons) (Agri) from Haryana University in 1992.

8. The further case of the respondents was that no person, junior to the petitioner, had ever been promoted to the post of Extension Officer (ADO) . In that connection, it has been pointed out that in the seniority list of AFA's (Sr)) , circulated during the year 1st September, 1989, the petitioner was placed at Sl.No.310 amongst the AFA (Sr) working in the Department at that point of time.

9. It has also been pointed out that at no point of time, the petitioner approached any Court seeking correction of his position so shown in the seniority list circulated in 1989. Since he never prayed for correction of his position in the seniority list aforesaid, it can very well be presumed that he had no grievances in placing him at Sl.No.310 of the seniority list aforesaid. In view of the above, the State respondents urge this court to dismiss the proceeding since the proceeding is devoid of merit.

10. The petitioner having filed affidavit-in-reply to the counter affidavit of respondent No.1 and 2 reiterated his statements, made in his petition. He further contends that his status as APST has been confirmed by the concerned Deputy Commissioner having issued a certificate in that regard. He further contends that he has completed his 4 years degree course in B.Sc (Hons) (Agri) from Haryana University in 1992. He, therefore, submits this Court to give him reliefs as sought for.

11. In course of argument, the learned counsel for the State respondents had submitted that though the State has serious objection against the reliefs, sought for by the petitioner in this proceeding, yet, the State may still consider the case of the petitioner for promotion to the next higher grade in accordance with the established procedure subject to following grounds:-

a). The State respondents would ascertain the present position of the petitioner amongst the serving Village Level Worker (Junior), (

b) If on making such an exercise, if the petitioner is found in the zone of consideration, his matter would be placed before the DPC.

c) In that event, the DPC would consider the case of the petitioner for promotion to the next higher grade,

d) In the event of positive recommendation of the DPC and also on depending the vacancy position, the State respondents

would take necessary decision on such recommendation of DPC.

12. I have considered above submissions in the light of materials on record and having regard to the submission, advanced by the learned counsel for the petitioner. The learned counsel for the petitioner seems to have agreeable to the proposition, so advanced by the learned Senior Govt. Advocate, Mr. R.H.Nabam.

13. In view of above, I am of the opinion that suggestions made by the State respondents needs to be accepted, which I accordingly do.

14. In the result, this proceeding is disposed of with the following directions:

- 1) The State respondents shall ascertain the position on the petitioner among the Village Level Worker, in accordance with the existing rules and procedures.
- 2) If on making such an exercise, the State respondents find the petitioner in the zone of promotion, then his case would be forwarded to the DPC for its consideration
- 3) If the DPC renders favourable recommendation in respect of the petitioner and if there is existing vacancy, the State respondents would promote the petitioner to the post of Extension Officer (ADO) .

15. Since the petitioner would retire from service on attaining the age of superannuation in the month of November, 2014, the State respondents are directed to complete the aforesaid exercise within a period of 2(two) months from the date of receipt of a certified copy of this judgment .

16. With the above observations and directions, this writ petition is disposed of. No cost.

JUDGE

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