

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA, MIZORAM & ARUNACHAL PRADESH)  
**ITANAGAR BENCH.**

**WRIT PETITION(C) NO. 66 (AP) 2009**

Shri M.K. Sen,  
Son of Late Harendra Kumar Sen,  
Permanent resident of village Thatltapaparia,  
PO: Dattapukur, District-24- Parganas,  
West Bengal and presently posted as  
Assistant Engineer (Drilling),  
WR Drilling Division, Roing,  
Lower Dibang Valley District,  
Water Resource Department,  
Arunachal Pradesh.

.....Petitioner.

By Advocate:  
Ms. N. Danggen

-Versus-

1. The State of Arunachal Pradesh  
represented by the Chief Secretary  
Govt. of Arunachal Pradesh,  
Itanagar.
2. The Secetary, Water Resource Department,  
Govt. of Arunachal Pradesh,  
Itanagar.
3. The Chief Engineer, Water Resource Department  
Govt. of Arunachal Pradesh.  
Itanagar.
4. Shri Hage Mobbing, S/o Shri Hage Tama,  
O/o Executive Engineer WR Drilling Division,  
Roing, District- Lower Dibang Valley,  
Arunachal Pradesh.

.....Respondents.

By Advocates:  
Ms. G. Deka, Addl. Sr.G.A.  
Mr. B. Habung, for resp. No.4.

**BEFORE**  
**THE HON'BLE MR. JUSTICE P. K. MUSAHARY**

Date of hearing : 12.01.2010

Date of Judgment & Order : 12 .01.2010

### **JUDGMENT AND ORDER (ORAL)**

Heard Ms. N. Danggen, learned counsel for the petitioner. Heard also Ms. G. Deka, learned Addl. Senior Govt. Advocate, Arunachal Pradesh, appearing on behalf of the respondent Nos. 1 to 3 and Mr. B. Habung, learned counsel, appearing on behalf of the respondent No.4.

2. The petitioner claims that he was appointed as Junior Engineer (Mechanical) in the Rural Works Department (RWD) on 23-01-1984. After the trifurcation of RWD into three departments, namely, RWD, PHE and IFCD, the petitioner, at the time of trifurcation, opted for service in the IFCD and while he was working as Junior Engineer in the IFCD, he was promoted to the post of Technical Assistant. The IFCD Mechanical Wing is treated as a separate division called as "Drilling Division" and the staff of the drilling division are treated as separate cadre in 'Mechanical Wing'. It was also decided by the respondent authorities to maintain separate inter-se-seniority list of the existing staff of the drilling division. In the above seniority list, the petitioner was the senior-most in the post of Junior Engineers and the private respondent No.4 is junior to him; his name being placed at Serial No.6.

3. The IFCD was renamed as WRD in the year 2006. None of the services of the Assistant Engineers have been regularised. The petitioner submitted several representations on 24-12-1999, 02-07-2002, 10-10-2003 and 02-07-2004 but without any response from the respondent authorities. No DPC was held although the petitioner and others became eligible for promotion to the said post. In the meantime, the Government sanctioned one post of Executive Engineer on 12-02-2008. The senior-most Assistant Engineer, Shri V.N. Pandey went on deputation to Chattisgarh and the petitioner being the next senior-most Junior Engineer, who is working as Assistant Engineer on adhoc basis became entitled for



being promoted to the post of Executive Engineer. The petitioner made representation on 14-02-2008 for promotion to the post of Executive Engineer (Drilling) but, without considering his case, the respondent authorities allowed the private respondent No.4, Shri Hage Mobbing to hold the charges of Executive Engineer vide impugned order dated 17<sup>th</sup> March, 2008 although he was holding the post of Assistant Engineer (Drilling) on officiating basis only on 28-04-2004. The petitioner challenges this impugned order.

4. Ms. Deka, learned Addl. Sr. Govt. Advocate, referring to the averments made in para 6 of the affidavit-in-opposition filed by the respondent Nos. 1 to 3 submits that steps are being taken for holding the DPC meeting for the purpose of regularisation of the services of the officiating Engineers (Drilling/Mechanical) after collecting the ACRs, zone consideration list, vigilance clearance report, integrity certificate etc. It is also submitted that the respondent No.4 has been allowed to hold the charges of Executive Engineer (Drilling) purely on temporary arrangement for a period up to 14-02-2010 or until Shri V.N.Pandey is repatriated in the department or whichever is earlier.

5. If the aforesaid averments of the official respondents are accepted, the respondent authorities are bound to hold the DPC on or before 14-02-2010 and the impugned order dated 17<sup>th</sup> March, 2008 cannot be allowed to operate beyond 14-02-2010. The fact remains that the respondent authorities have failed to hold the DPC during a period of about 2 years since the Respondent No.4 was allowed to hold the charge of Executive Engineer which smacks of red tapism making the employees due for promotion suffer. The failure to hold the DPC is to be treated as a serious administrative lapse inasmuch as the promotees are made to suffer for no fault on their parts. The Apex Court has already come down heavily and

decried the failure of the authorities in holding the DPC in PN Premchandran Vs. State of Kerela, reported in (2004) 1 SCC 245.

6. In view of the above position, without going into the merit of the case of the petitioner as well as the private respondent No.4, this writ petition can be disposed of directing the respondent authorities to act as per the averments made in the counter affidavit by holding the DPC on or before 14-02-2010. Accordingly, this writ petition stands closed directing the respondent authorities to hold DPC by 14-03-2010. This extra time is allowed on the prayer of Ms. Deka, learned Addl. Sr. Govt. Advocate, for holding the DPC and regularisation of the services of Assistant Engineers. It is provided that the private respondent No.4 shall not be allowed to hold the charges of Executive Engineer beyond 14-03-2010.

7. With the aforesaid directions, this writ petition stands closed. No order as to costs.

  
**JUDGE**

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