

GAHC010185122014



2025:GAU-AS:8273

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2297/2014

RAJU CHUTIA
S/O- KHAGEN CHUTIA, R/O VILL.- SONARI CHAPORI,P.S.-
DHAKUAKHANA,PIN- 787055, DIST.- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM and 4 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
HEALTH AND F.W. DEPTT., DISPUR, GHY- 6.

2:THE DY. SECY. TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT.
DISPUR
GHY- 6.

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GHY- 36.

4:THE JOINT DIRECTOR OF HEALTH SERVICES
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM.

5:THE DIST. MALARIA OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

Advocate for the Petitioner : MRS.M BEGUM, MR.I CHOUDHURY

Advocate for the Respondent : SC, HEALTH,

Linked Case : WP(C)/2923/2014

RANABIR BISWAS
S/O LT. JAWANENDRA KUMAR BISWAS
VILL- KHALIHAMARI
RED CROSS ROAD
P.O. and DIST. DIBRUGARH
PIN- 786001.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HEALTH and WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF HEALTH SERVICES

ASSAM
HENGRABARI
GUWAHATI-36.

3:THE JOINT DIRECTOR OF HEALTH
SERVICES
TINSUKIA
DIST. TINSUKIA
ASSAM.

Advocate for : MR. D NATH
Advocate for : appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/2925/2014

TILOK CHETIA
S/O- SHRI JADUMONI CHETIA
VILL.- DIBONG NO. 2
P.O.- DIBONG
MARGHERITA
DIST.- TINSUKIA
PIN- 786181.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
HEALTH and WELFARE DEPTT.
DISPUR
GHY- 6.

2:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GHY- 36.

3:THE JOINT DIRECTOR OF HELTH SERVICES
TINSUKIA
DIST.- TINSUKIA
ASSAM.

Advocate for : MR.B D DAS
Advocate for : appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/1199/2014

SMTI DEVAJANI MALAKAR
W/O SADANANDA DAS
R/O BONGSHAR
P.S. SUWALKUCHI
DIST- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HEALTH AND F.W. DEPTT.
DISPUR
GHY-6

2:THE DY. SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND F.W. DEPARTMENT
DISPUR
GHY-6

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GHY-36

4:THE JT. DIRECTOR OF HEALTH SERVICES
BARPETA
DIST- BARPETA
ASSAM

5:THE JT. DIRECTOR OF HEALTH SERVICES
KAMRUP
AMINGAON
GHY-31

Advocate for : MRS.M BEGUM
Advocate for : appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/1648/2014

BINOD KUMAR CHETRY
S/O SHRI SHYAM KUMAR CHETRY P.O. and VILL- KETETONG
VIA - MARGHERITA DIST. TINSUKIA
PIN- 786181.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT.OF ASSAM
HEALTH and WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF HEALTH SERVICES

ASSAM
HENGRABARI
GUWAHATI -36.

3:THE JOINT DIRECTOR OF HEALTH
SERVICES
TINSUKIA
DIST. TINSUKIA
ASSAM.

Advocate for : MR. D NATH
Advocate for : MR.D SAIKIA appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/1293/2014

SMTI JUTIMA HAZARIKA
W/O LT. GHANASHYAM HAZARIKA
R/O NORTH GUWAHATI
MAZGAON
GHY-34
DIST- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND F.W. DEPT.
DISPUR
GHY-6

2:THE DY. SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND F.W. DEPARTMENT
DISPUR
GHY-6

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GHY-36

4:THE JT. DIRECTOR OF HEALTH SERVICES
BARPETA
DIST- BARPETA
ASSAM

5:THE JT. DIRECTOR OF HEALTH SERVICES
KAMRUP
AMINGAON
GHY-31

Advocate for : MR.P KATAKI
Advocate for : appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/2211/2014

NABAJYOTI BORAH and ANR.
S/O SRI PRABHAT BORAH
R/O BONPUROI
PIN-784165
DIST- LAKHIMPUR
ASSAM

2: CHANDAN BORAH
S/O SRI MAHENDRA BORAH
R/O GHAHIGAON
PIN-784170
DIST- SONITPUR
ASSAM
VERSUS

STATE OF ASSAM and 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HEALTH AND F.W. DEPT.
DISPUR
GHY-6

2:THE DY. SECRETARY
TO THE GOVT. OF ASSAM
HEALTH and F.W. DEPARTMENT DISPUR
GHY-6

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GHY-36

4:THE JT. DIRECTOR OF HEALTH SERVICES
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

5:THE DISTRICT MALARIA OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

Advocate for : MR.D BHUYAN

Advocate for : appearing for STATE OF ASSAM and 4 ORS

Linked Case : WP(C)/2363/2014

MINTU BARUAH and ANR
S/O LT. DHARMESWAR BARUAH VILL- BHERUADAL P.O. DHUNI DIST.
DARRANG
ASSAM.

2: SRI RINTU KAKATI
S/O LOHIT CH. KAKATI VILL- GERIMARI
PRAFULLA NAGAR P.O. MANGALDAI DIST. DARRANG
ASSAM.
VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF HEALTH SERVICES

ASSAM
HENGRABARI
GUWAHATI-36.

3:THE JOINT DIRECTOR OF HEALTH SERVICES
CACHAR
SILCHAR.

4:THE JOINT DIRECTOR OF OF HEALTH SERVICES
DARRANG
MANGALDAI.

Advocate for : MR.S H RAHMAN
Advocate for : appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/1138/2014

SUJIT KUMAR ROY and 3 ORS
S/O SOCHARU MOHAN ROY R/O VILL- BIDYARDABRI
DIST. DHUBRI
ASSAM.

2: SULTAN MONDOL

S/O SAPPIER RAHMAN MONDOL
P.O. VILL- FULERCHAR
P.S. SOUTH
SOLMARA
DIST. DHUBRI
ASSAM.

3: MINARUL HAQUE
S/O JOSHIJUL HAQUE R/O WARD NO. 14
A.M. CO. ROAD
DHURI
P.S. DIST. DHUBRI
ASSAM.

4: JATIN CHANDRA DAUKA
S/O BHABESH CHANDRA DAUK
R/O VILL- PANDU COLLEGE GATE
P.O. PANDU
P.S. JALUKBARI
GUWAHATI- 781012
DIST. KAMRUP
ASSAM.
VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI- 781006.

2:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGABARI
GUWAHATI- 781036.

4:THE JOINT DIRECTOR OF HEALTH SERVICES
DHUBRI.

5:THE JOINT DIRECTOR OF HEALTH SERVICES
KAMRUP
AMINGAON.

Advocate for : DR.B AHMED

Advocate for : appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 20-06-2025

Heard Mr. H. K. Sarma and Mr. I. Choudhury, learned counsel appearing for the petitioners. Also heard Mr. B. Gogoi, learned Additional Advocate General, Assam, appearing for the State respondents.

2. The petitioners instituted these writ petitions assailing the orders passed by the respondent authorities cancelling the petitioners' promotion to the posts of Surveillance Worker and also reverting them to their original posts in Grade-IV figuring in different establishments under the Directorate of Health Services, Assam.

3. The petitioners were initially appointed against various Grade-IV posts in different establishments under the Directorate of Health Services, Assam. While they were continuing in their services in such posts, the petitioners were issued with promotion orders promoting them to the cadre of Surveillance Worker. Such orders were issued in the year 2013-2014. The Government in the Health and Family Welfare Department, on coming to learn about such promotions being given to the employees beyond their respective service, proceeded to issue a communication dated 08.01.2014 requiring the Director of Health Services, Assam, to cancel all such promotions given to the incumbents in Grade-IV cadre, to the posts of Surveillance Worker under the Directorate. Accordingly, the Director of Health Services, Assam, passed a speaking order dated 01.02.2014 holding therein that the promotions given to the Grade-IV employees to the posts of Surveillance Worker had been cancelled and the Grade-IV employees, who had been promoted to the posts of Surveillance Worker, were directed to go back to their original posts immediately. Accordingly, the promotions of the petitioners to the posts of Surveillance Worker having been cancelled and they being reverted to their original posts held by them in Grade-IV cadre, the petitioners instituted the present proceedings.

4. In the present cases, while issuing notice, this Court had passed orders directing maintenance of *status quo* with regard to the service of the petitioners.

5. Learned counsel for the petitioners, on a query made by this Court as to whether the petitioners are presently functioning as Surveillance Workers, could not satisfactorily respond, inasmuch as the learned counsel for the parties have submitted that they do not have any information with regard to the same. Be that as it may, the manner in which the promotions were effected would go to reveal that the same were made on pick-and-choose basis without there being any selection process undertaken before promoting the petitioners. It is to be noticed that in none of the writ petitions it has been contended that the petitioners along with similarly situated incumbents had undergone any process of selection before the petitioners were promoted to the post of Surveillance Workers. The only contention raised by the learned counsel for the petitioners is that cancellation of the promotions given to the petitioners would not be not sustainable inasmuch as such cancellation was effected without affording to them any opportunity of hearing.

6. It is to be noticed that the petitioners were initially recruited against various posts figuring in Grade-IV cadre in different establishments under the Director of Health Services. The post of Surveillance Worker in the establishments under the control of the Director of Health Services is not a promotional post meant for the incumbents in Grade-IV cadre. Accordingly, the petitioners could not have been promoted to the posts of Surveillance Worker which did not form part of hierarchy of the service which they had been recruited to. Moreover, the orders of promotion of the petitioners to the posts of Surveillance Worker do not demonstrate that the promotions had been effected by following the due process of law. Hence, in the considered view of this Court, no notice is mandated to be issued prior to cancellation of such illegal orders of promotion.

7. In view of the above position, learned counsel for the petitioners have submitted that they would not be pressing the matter with regard to cancellation of the petitioners' promotion and their subsequent reversion to the Grade-IV posts. It is submitted that since the petitioners had continued in their respective services for a long period, may it be either against Grade-IV post or the post of Surveillance Worker, on their subsequent

reversion to their original posts in the Grade-IV cadre, their continuity in service in such posts be maintained for the purpose of determining their seniority in their original cadre. Learned counsel for the petitioners have also urged that in the event of the petitioners being found to be eligible for promotion to the next higher posts in the service, their cases be so considered and also in the event their juniors have been so promoted to higher posts while they were serving as Surveillance Workers, the petitioner's cases be also considered for such promotion. However, learned counsel for the petitioners have fairly conceded that the entitlement of the petitioners for promotion to next higher post shall have to be considered in light of the rules holding the field at the relevant point of time.

8. In view of the above submissions advanced by the learned counsel for the parties, this Court is not required to further adjudicate upon the validity of the orders passed by the respondent authorities towards cancelling the promotion of the petitioners to the posts of Surveillance Worker and, accordingly, the impugned orders cancelling the promotion of the petitioners to the posts of Surveillance Worker stand upheld. Resultantly, it is directed that in the event the petitioners, or any of the petitioners, have continued to serve in the post of Surveillance Worker, they shall, in view of the directions passed by this Court in the present proceeding, stand reverted, with immediate effect, to the establishment where they were holding the post in the Grade-IV cadre.

The Director of Health Services, Assam, shall identify the posts against which the petitioners would be so absorbed on their reversion. On the reversion of the petitioners to their original posts in Grade-IV cadre, the petitioners would be deemed to have continued against their respective Grade-IV posts against which they had been originally appointed. The period of service rendered by the petitioners as Surveillance Worker would be deemed to be the service rendered by the petitioners against the original Grade-IV posts for the purpose of determining their respective seniority in the establishment, in which they now would be posted. The above direction has been issued with the view to maintain continuity of the petitioners' services on cancellation of the orders of their promotion.

9. This Court, having upheld the orders issued towards cancellation of the promotion orders of the petitioners against the posts of Surveillance Worker and also their consequential reversion to the Grade-IV posts held by the petitioners prior to such promotion, the respondent authorities would now be required to fix the pay of the petitioners on their reversion against the Grade-IV post. The Director of Health Services, Assam, shall accordingly fix the pay of the petitioners by treating the period of service rendered by them against the posts of Surveillance Worker to have been so rendered against Grade-IV posts by applying the scale of pay authorised to Grade-IV posts. However, it is provided that the salaries drawn by the petitioners against the post of Surveillance Workers be not recovered.

10. Since the petitioners have been granted continuity in service in their respective posts in Grade-IV cadre, in the event any persons junior to the petitioners have already been promoted to next higher post, liberty is reserved to the petitioners to file appropriate application before the competent authority staking their claim for such promotion to be effected with retrospective effect, i.e., with effect from the date of promotion of their juniors. In the event of receipt of such application, the same shall be considered by the Directorate of Health Services, Assam. On consideration of such application, the Director of Health Services, Assam shall pass a speaking order thereon within a period of two months from the date of receipt of such application. In the event the petitioners and/or any one of them is found to be eligible for being promoted with retrospective effect, the petitioners be granted such promotion with retrospective effect and their pay and allowances in the promotional post be fixed notionally with effect from the effective date of their such promotion, till the date of their actual promotion.

11. With the above observations and directions, all the writ petitions stand disposed of.

JUDGE

Comparing Assistant