GAHC040008492020 2026:GAU-AP:1055

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

Case No. : WP(C)/325/2020

INGONG PABIN AND 10 ORS.
S/OLT. TADANG PABIN, VILLAGE MIRBUK, PO/PS PASIGHAT, DIST. EAST SIANG, AP.

2: TAPAK MIROH
Age:
Occupation :
VILLAGE NARI
PO/PS NARI
DISTRICT LOWER SIANG
AP.

3: MIGO ADA
Age:
Occupation :
S/O LT. REMI ADA
VILLAGE DIPA
PO/PS LIKABALI
DIST. LOWER SIANG
AP.

4: KANTO MIROH
Age:
Occupation :
S/O LT. TADO MIROH
VILLAGE LIRU
PO/PS LIKABALI
DIST. LOWER SIANG
AP.

5: MARBIN GIBI
Age:
Occupation :
S/O SHRI YUMMAR GIBI

VILLAGE JIPU
PO/PS LIKABLI
DIST. LOWER SIANG
AP.

6: DAKGI TAIPODIA
Age:
Occupation :
S/O LT. NIDAK TAIPODIA
VILLAGE LIRU
PO/PS LIKABALI DIST. LOWER SIANG
AP.

7: JUMTO TAO
Age:
Occupation :
S/O SHRI IJUM TAO
VILLAGE LIRU
PO/PS LIKABALI DISTRICT LOWER SIANG
A P.

8: YUMKAR NYORI
Age:
Occupation :
S/O LT. MARYOM NYORI
VILLAGE RILU
PO/PS BASAR
DIST. LEPA RADA
AP.

9: KAGO TAYU
Age:
Occupation :
S/O LT. KAGO HALIANG
VILLAGE HIJA
PO/PS ZIRO
DIST. LOWER SUBANSIRI DIST. AP.

10: YORTUM RIRAM
Age:
Occupation :
S/O LT. JUMYOR RIRAM
VILLAGE PUAKGUMIN
PO/PS AALO
DIST. WEST SIANG
AP.

11: MARBOM SORA

Age:
Occupation :
S/O LT. JUMMAR SORA
VILLAGE SIPU COLONY
PO/PS AALO
DIST. WEST SIANG
AP

VERSUS

The State of AP and 16 Others
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF AP, ITANAGAR.

2:THE SECRETARY
Age: 0
Occupation :
ADMINISTRATIVE REGORMS
GOVT. OF AP
ITANAGAR.

3:THE PRINCIPAL SECRETARY ENVIRONMENT AND FOREST
Age: 0
Occupation :
GOVT. OF AP
ITANAGAR.

4:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
Age: 0
Occupation :
GOVT. OF AP
ITANAGAR.

5:THE CONSERVATOR OF FOREST (HQ)
Age: 0
Occupation :
DEPARTMENT OF ENVIRONMENT AND FOREST.
GOVT. OF AP
ITANAGAR.

6:Chow Konseng Chowpo
Age: 0
Occupation :
B
SC (Hon's) (Range Forest Officer)
C/o Divisional Forest Officer (DFO)
Divisional Forest Officer (DFO)
Lohit Forest Division
Tezu

Department of Forest and Environment
Govt. of Arunachal Pradesh
District Lohit
Arunachal Pradesh.

7:Oyem Mize
Age: 0
Occupation :
B.Sc (Agri)
(Range Forest Officer)
C/o Divisional Forest Officer (DFO)
Dibang Forest Division
Tezu
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Dibang
Lower Dibang Valley
Arunachal Pradesh.

8:Kabuk Lego
Age: 0
Occupation :
M.Sc
PhD. (Range Forest Officer)
C/o Divisional Forest Forest Officer (DFO)
Meho Wildlife Division
Roing
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Pakke Kessang
Arunachal Pradesh.

9:Rubu Tado
Age: 0
Occupation :
B.Sc (Range Forest Officer)
C/o Divisional Forest Officer (DFO)
Pakke Wildlife Division
Seijosa
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Pakke Kessang
Arunachal Pradesh.

10:Talo Dibo
Age: 0
Occupation :
B.Sc (Range Forest Officer)

C/o Divisional Forest Officer (DFO)
Hapoli Forest Division
Hapoli
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Lower Subansiri
Arunachal Pradesh.

11:Taba Begi
Age: 0
Occupation :
B.Sc (Range Forest Officer)

C/o Divisional Forest Officer (DFO)
Capital Social Forestry Division
Itanagar
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Papum Pare
Arunachal Pradesh.

12:R.N. Singh
Age: 0
Occupation :
B.Sc (Range Forest Officer)

C/o Divisional Forest Officer (DFO)
Namsai Forest Division
Namsai
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Namsai
Arunachal Pradesh.

13:Subash Chakraborty
Age: 0
Occupation :
B.Sc (Range Forest Officer)

C/o Divisional Forest Officer (DFO)
Meho Wild Life Division
Roing
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Lower Dibang Valley
Arunachal Pradesh.

14:Diwang Lowang
Age: 0
Occupation :
B.Sc (Range Forest Officer)
C/o Divisional Forest Officer (DFO)
Deomali Forest Division
Deomali
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Tirap
Arunachal Pradesh.

15:Techi Khili
Age: 0
Occupation :
B.Sc (Range Forest Officer)
C/o Divisional Forest Officer (DFO)
Social Forestry Division
Deomali
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Papum Pare
Arunachal Pradesh.

16:Biri Tarang
Age: 0
Occupation :
B.Sc (Range Forest Officer
Balijan)
C/o Divisional Forest Officer (DFO)
Banderdewa Forest Division
Banderdewa
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Papum Pare
Arunachal Pradesh.

17:Majik Talit
Age: 0
Occupation :
B.Sc (Range Forest Officer
Tali)
C/o Divisional Forest Officer (DFO)
Kra Daadi Forest Division
Department of Forest and Environment
Govt. of Arunachal Pradesh
District Kra Daadi
Arunachal Pradesh

Advocate for the petitioners : Mr. M. Biswas

Advocates for the respondents : Mr. I. Choudhury,
Advocate General
Ms. K. Wangmo,
Govt. Adv
Mr. T. Tagum, Adv

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO
HON'BLE MR. JUSTICE BUDI HABUNG

Date on which judgment is reserved: 29.09.2026

Date of pronouncement of Judgment:13.10.2026

Whether the pronouncement is of the Operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

JUDGMENT & ORDER (CAV)

(Nelson Sailo, J)

Heard Mr. M. Biswas, learned counsel for the petitioners and Mr. I. Choudhury, learned Advocate General, Arunachal Pradesh assisted by Ms. K. Wangmo, learned Government Advocate, appearing for the respondent Nos. 1 to 5 as well as Mr. T. Tagum, learned counsel appearing for the respondent Nos. 6 to 17.

2. By filing this writ petition, the petitioners have sought for setting aside and quashing the provisions in Serial No. 7 and Serial No. 11(b) of the Scheduled to the Range Forest Officer Recruitment Rules, 2019 (Rules of 2019) for the post of Range Forest Officer (RFO) by declaring the same to be ultra-vires, unconstitutional, illegal and void. The petitioners have further prayed for setting aside and quashing the appointment orders of the private respondent Nos. 6 to 17 and other appointment orders in the post of RFO, who may be junior to them in terms of the seniority list. The petitioners have also prayed for issuance of a mandamus to the respondent authorities to promote them to the post of RFO.

3. At the outset, Mr. M. Biswas, learned counsel for the petitioners submits that although there are 11(eleven) writ petitioners, who have approached this Court, but during the pendency of the writ petition, petitioner No.2 has already been promoted to the post of RFO, the petitioner No.4 has expired and the petitioner No.10 has retired on superannuation. He therefore, submits that the writ petition is being pressed on behalf of the remaining writ petitioners except for petitioner Nos. 2, 4 and 10.

4. The learned counsel for the petitioners submits that the petitioners were initially appointed as Foresters and they were subsequently promoted to the post of Deputy Forest Rangers (DFR). He submits that the next promotional

post from the post of DFR is to the post of RFO. The Government of Arunachal Pradesh in the Department of Administrative Reforms vide Office Memorandum No.74/2013 dated 28.01.2014, mandated the minimum educational qualification for appointment to the post to Group-A and Group-B posts as Graduation/Bachelors Degree from a recognized University. The minimum educational qualification was mandated either in case of direct recruitment or promotion.

5. However, vide Office Memorandum No.74/2013/1258 dated 27.05.2015, the State Government in the same Department, decided to keep the Office Memorandum No.74/2013 dated 28.01.2014 in abeyance for a period of four years from the date of issuance of the Office Memorandum. It was further provided that the same shall be reintroduced after the expiry of four years. That during the period of suspension of four years, the Government Servants, who did not possess the educational qualification of Graduation/Bachelors Degree from a recognized University, may acquire/secure the educational qualification of Graduation/Bachelors Degree. It was also provided that the promotions that were effected during the operation of the Office Memorandum dated 28.01.2014 were not tobe reviewed.

6. It is the case of the petitioners that during the period of suspension of the

Office Memorandum dated 28.01.2014, the Government of Arunachal Pradesh in the Department of Administrative Reforms vide Office Memorandum dated 18.01.2016, exempted technical post from the Graduation/Bachelors Degree requirement for appointment/promotion of Group-A and Group-B posts/services. Accordingly, the Office Memorandum dated 28.01.2014, which mandated the minimum education qualification as Graduation/Bachelors Degree from a recognized University for appointment to Group-A and B posts was modified vide the Office Memorandum dated 18.01.2016.

7. The petitioners further contend that drawing a similar analogy, the Department of Home, Government of Arunachal Pradesh promoted its employees who only had Class-X/Class-XII pass qualification to the Arunachal Pradesh Police Services (APPS) (Group-A), vide Order No.HMB(A)-41/2018 dated 27.06.2019. According to the petitioners, the same can be seen from the seniority list of the year 2019 of the Arunachal Pradesh Police Services, wherein the employees with Class-X/Class-XII pass qualification were shown to have been inducted in the APPS cadre with the date of their appointment as 05.04.2016 and 22.06.2019.

8. It is the further contention of the petitioners that 22(twenty two) Officers in the post of DFR, who were immediate senior to them were promoted to the

next higher post of RFO vide order dated 22.02.2017 despite the fact that they possess the same educational qualification of 10+2 pass as that of the petitioners. Subsequently, the Government of Arunachal Pradesh in the Department of Environment and Forest, framed the Rules of 2019 providing for the educational qualification of Bachelors Degree in Science/Engineering/Agriculture/Forestry from any recognized University/Institution with at least one of the subjects such asBotany, Chemistry, Forestry, Geology, Mathematics, Physics, Statistics, Zoology, Horticulture, Environment, Fisheries, Agriculture, Veterinary Science or Engineering. Further, as per Serial No. 11(b) of the Scheduled to the Rules of 2019, even in the case of recruitment by way of promotion/deputation/grades from which promotion/deputation/absorption is to be made, one has to possess the minimum educational qualification as prescribed in Serial No. 7 of the same Schedule i.e., Bachelors Degree in any of the given field of studies. The Rules of 2019 was published in the Arunachal Pradesh Gazette on 17.01.2020 and came into force from that date.

9. Mr. M. Biswas, learned counsel for the petitioners submits that 22 (twenty two) officers who possessed the educational qualification of only 10+2 pass like that of the petitioners, who were the immediate seniors of the petitioners, were promoted to the post of RFO without insisting upon the qualification of

Graduation/Bachelors Degree from a recognized University during the suspension of the Office Memorandum dated 28.01.2014. The petitioners being similarly situated should be given similar benefits on the principles that equals cannot be treated unequally and likewise un-equals cannot be treated equally.

10. He also submits that the vacancies in the promotional post of RFO occurred on 01.01.2020 before the Rules of 2019 came into force after being published in the Arunachal Pradesh Gazette on 17.01.2020. He submits that going by the impugned action of the State Government in granting the benefit of promotion to some its employees despite them not possessing the requisite educational qualification while denying the similar benefit in case of the petitioners amounts to indulging in cherry picking and a pedanticapproach towards the petitioners. He thus submits that the petitioners should also be given the benefit of being considered for their promotion to the post of RFO on the basis of their experience and educational qualification that they possess and failure to do so will result in the infringement of their Fundamental Rights guaranteed under Article 14 & 16 of the Constitution of India. Mr. M. Biswas, learned counsel for the petitioners in support of this submission has relied upon the following authorities:-

(i) A.A. Calton v. Director of Education & Another, reported in (1983) 3 SCC 33;

(ii) Uttar Pradesh Power Corporation Limited v. Ayodhya Prasad Mishra &Another, reported in (2008) 10 SCC 139.

11. Mr. I. Choudhury, learned Advocate General, Arunachal Pradesh submits that the Office Memorandum dated 28.01.2014 was issued by the State Government in the Department of Administrative Reforms for fixing a basic qualification i.e., Graduation/Bachelors Degree from a recognized University for promotion to GroupA and B posts since the posts are Managerial besides supervisory in nature which requires a lot of conceptual and interpersonal skills to discharge the duties attached to the posts.However, the same was suspended vide Office Memorandum dated 27.05.2015 on temporary basis for 04 (four) years so as to give an opportunity to those Officers who do not possess the qualification of Graduation/Bachelors Degree. Subsequently, the requirement of having the educational qualification of Graduation/Bachelors Degree for promotion to the post of RFO was introduced through the Rules of 2019 which was published in the Arunachal Pradesh Gazette on 17.01.2020. Hence, possessing the educational qualification of Graduation/Bachelors Degree from a recognized University became mandatory for direct recruits and promoteesalike in order to be considered for the post of RFO w.e.f. 17.01.2020.

12. The learned Advocate General submits that it is no doubt true that 22 (twenty two) officers who were senior to the petitioners in the post of DFR were

promoted to the post of RFO despite not having the educational qualification of Graduation/Bachelors Degree from a recognized University, but the same was done when the Office Memorandum dated 28.01.2014 was suspended for 04 (four) years vide Office Memorandum dated 27.05.2015. The promotion of the 22 (twenty two) officers was done in the year 2017. However, after the framing of the Rules of 2019, which came into force on 17.01.2020, one requires to possess the minimum educational qualification of Graduation/Bachelors Degree from a recognized University in order to be considered for promotion to the post of RFO. Learned Advocate General, submits that the Government as an employer has the absolute discretion to fix the educational qualification for appointment or promotion to a particular post. Further, the contention of the learned counsel for the petitioners that since the vacancy arose before the framing of the Rules of 2019, cannot be applied and is not sustainable in view of the decision of the Apex Court in ***Y.V. Rangaiah v. J. Sreenivasa Rao,*** reported in ***(1983) 3 SCC 284,*** being overruled by a Constitution Bench of the Apex Court in ***State of Himachal Pradesh and Others v. Raj Kumar and Others,*** reported in ***(2023) 3 SCC 773***.

13. Learned Advocate General, further submits that the petitioners had earlier approached this Court by filing WP(C) No. 154 of 2020, which was disposed of vide Order dated 24.06.2020, by directing the Chief Secretary to the

Government of Arunachal Pradesh to consider and dispose of the representation dated 17.02.2020 filed by the petitioners within a time frame. The representation of the petitioners thereafter was considered by the said authority and disposed of vide Office Memorandum dated 09.09.2020 by rejecting the same. He submits that the rejection of the representation has also not been challenged by the petitioners and therefore, they are estopped and debarredfrom raising the same issue once again through the instant writ petition. He also submits that there may have been vacancies in the post of RFO, but it is for the State Government to decide whether or not to fill up such vacancy. He submits that the State Government has every right to not fill up the vacancyby taking a conscious decision. He thus submits that under the facts and circumstances of the case, the writ petition has no merit and the same should be dismissed.

14. Mr. I. Choudhury, learned Advocate General, in support of this submission has relied upon the following authorities:-

(i) State of Himachal Pradesh and Others v. Raj Kumar and Others (supra);

(ii) V.K. Sood v. Secretary, Civil Aviation and Others, reported in 1993 Supp (3) SCC 9;

(iii) Vice-Chancellor, University of Allahabad and Others v. Dr.

Anand Prakash Mishra and Others, reported in (1997) 10 SCC 264;

(iv) State of Bihar and Others v. Kameshwar Prasad Singh and Another, reported in (2000) 9 SCC 94; and

(v) State of Odisha and Another v. Anup Kumar Senapati and Another, reported in (2019) 19 SCC 626.

15. We have heard the submissions made by the learned counsels for the rival parties and perused the materials available on record.

16. The issue to be considered is as to whether the prescription of the educational qualification of Graduation/Bachelors Degree from a recognized University as provided in Serial No. 7 and 11(b) of the Schedule to the Rules of 2019 in order to be considered for promotion to the post of RFO is ultra-vires, unconstitutional, illegal and void. The petitioners are admittedly 10+2 pass and with that qualification they were initially appointed as Foresters and later on, promoted to the post of DFR. During the time of their initial entry into service, the Recruitment Rules for the post of Forester was the "Forest Recruitment Rules, 2003"(Rules of 2003). As per column 8 of the Schedule to the Rules of 2003, the educational qualification required in order to be eligible for consideration to the post of Forester besides others is 10+2 pass with Science from a recognized institute. Accordingly, the petitioners had all entered

servicewith their 10+2 qualification. The post of Forester is classified as Group-C, non-ministerial post and also a non-selection post.

17. Later,with the passage of time, the State Government in the Department of Administrative Reforms having realized that the minimum educational qualification for direct entry to Group-B post in the State Government is Bachelors Degree, but there was lack of such stipulation in case of entry to Group-B post by way of promotion in the relevant service/recruitment rules of various departments in the State Government and after, having felt the requirement of evolving a qualitative workoutput, decided that a minimum educational qualification of Graduation/Bachelors Degree from a recognized University for being considered for appointment to Group-B post and Group-A post either by direct recruitment or by promotion was required. Accordingly, the Office Memorandum dated 28.01.2014 was issued in this regard. However, the Office Memorandum was kept in abeyance for 04 (four) years vide Office Memorandum dated 27.05.2015 on the ground that those Government Servants who did not have the educational qualification of Graduation/Bachelors Degree, can have the opportunity to acquire/secure the same during the period the Office Memorandum dated 28.01.2014 was kept in abeyance.

18. As projected by the petitioners, while the said Office Memorandum dated

28.01.2014 was kept in abeyance, 20 (twenty) officers who were senior to the petitioners in the post of DFR were promoted to the post of RFO although they did not have the educational qualification of Graduation/Bachelors Degree. Similar instances have also been highlighted by the petitioners that some Police Officerswere inducted in the cadre of APPS as well despite not having the educational qualification of a graduate. It may, however, be seen that such promotion were made during the period when the Office Memorandum dated 28.01.2014 was kept in abeyance. The Rules of 2019 came into operation w.e.f. 17.01.2020i.e., the date on which it was published in the Arunachal Pradesh Gazette. Going by the prescription of the Rules of 2019, unless one has the minimum educational qualification of Bachelors Degree in Science or thefields as notified, one cannot be considered for the post of RFO either by way of direct recruitment or by way of promotion from the feeder cadre.

19. The Apex Court in ***V.K. Sood (supra)***, in the give facts of that case held that in the exercise of the Rule making powers, the President or the authorized person is entitled to prescribe the method of recruitment, qualifications both educational as well as technical for appointment or conditions of service to an office or a post under the State. The Rules being made in exercise of the powers under the Proviso to Article 309 of the Constitution, being statutory, cannot be impeached on the ground that the authorities have prescribed tailor

made qualifications to suit the individual concerned in view of the fact that it is a settled law that no motives can be attributed to the Legislature in making the law. The Apex Court also referred to the Constitution Bench of the same Court in the case of ***General Manager, Southern Railway v. Rangachari,*** reported in ***AIR 1962 SC 36***, wherein the Constitution Bench held that equality of opportunity need not be confused with absolute equality as such. What is guaranteed is the equality of opportunity and nothing more. Article 16(1) or 16(2) does not prohibit the prescription of reasonable Rules for selection to any employment or appointment to any office or post. Any provision as to the qualifications for the employment or appointment to an office or post reasonable fixed and applicable to all citizens would certainly be consistent with the doctrine of the equality of opportunity.

20. Further reference was made to the case of ***State of Mysore v. P. Narasing Rao,*** reported in ***AIR 1968 SC 349,*** where the Apex Court held that the provisions of Article 14 or Article 16 do not exclude the laying down of selective tests, nor do they preclude the Government from laying down qualifications for the post in question. Such qualifications need not be only technical but they can also be general qualifications relating to the suitability of the candidate for such service as such. Therefore, in exercise of Rule making power, the President or the authorized person is entitled to prescribe method of

recruitment to the qualifications both educational as well as technical for appointment or conditions of service to an office or a post under the State.

21. The petitioners have also projected that since the vacancy to the post of RFO occurred prior to the framing of the Rules of 2019, they should be considered as per the Old Rules. This contention and submission in view of the decision of the Constitution Bench of the Apex Court in ***State of Himachal Pradesh and others (supra)*** cannot be accepted. In fact the earlier law laid down by the Apex Court in case of ***Y.V. Rangaiah v. J. Sreenivasa Rao (supra)***was overruled and the Apex Court held that the employee has no vested right to be considered for promotion in accordance with the repealed Rules in view of the policy decision of the Government and that the Government is under no obligation to make appointment as per old Rules. The Apex Court therefore, held that the rights and obligations of persons serving the Union and States are to be sourced from the Rules governing the services.

22. The Apex Court in ***State of Odisha and Another v. Anup Kumar Senapati and Another (supra)*** also held that there is no concept of negative equality under Article 14 of the Constitution. In case a person has a right, he is to be treated equally, but where right is not available, a person cannot claim right to be treated equally as the right does not exist. Therefore, negative

equality when the right does not exist cannot be claimed.

23. In the present case as well, although the immediate seniors of the petitioners had been given promotion during the period when the Office Memorandum dated 28.01.2014 was kept in abeyance, but with the coming of the force of the Rules of 2019, there is no scope for them to be considered in a similar way considering the attraction of the concept of negative equality.

24. The Apex Court in ***State of Bihar and Others v. Kameshwar Prasad Singh and Another (supra)*** has also held that the concept of equality as envisaged under Article 14 of the Constitution is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals, others cannot claim the same illegality or irregularity on the ground of denial thereof to them. The Apex Court in ***Vice-Chancellor, University of Allahabad and Others v. Dr. Anand Prakash Mishra and Others (supra)*** has also held that it is a settled legal position that a mandamus cannot be issued violating the law or to have in violation of the law.

25. Thus, having regard to the above facts and position of law, we are of the considered view that the impugned provisions in the Rules of 2019 i.e. Serial No. 7 and 11(b) cannot be said to be ultra-vires, unconstitutional, illegal or void

and that the petitioners cannot be said to have any legitimate grievances under the facts and circumstances of the case. The authorities relied upon by the learned counsel for the petitioners in view of the conclusion arrived at is found to be not relevant and the same is therefore not discussed.

26. In the result, we find no merit in the writ petition and the same is dismissed by leaving the parties to bear their own cost. Pending applications, if any, is/are also disposed of. Likewise, interim order/orders, if any, stands vacated.

JUDGE **JUDGE**

Comparing Assistant