GAHC010028962024

2026:GAU-AS:14967

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

Case No. : WP(C)/1055/2024

INDRA MOHAN SARMAH
S/O- LATE GHANA KT. SARMA, ASSISTANT ENGINEER, (NOW ASSISTANT EXECUTIVE ENGINEER (TC)(I/C)), ASSAM URBAN WATER SUPLLY AND SEWERAGE BOARD, GANESHGURI, GUWAHATI, PIN- 781006

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF HOUSING AND URBAN AFFAIRS, DISPUR, GUWAHATI, PIN- 781006

2:MANAGING DIRECTOR
THE ASSAM URBAN WATER SUPLLY AND SEWERAGE BOARD
AMRITPUR PATH
GANESHGURI
GUWAHATI
PIN- 78100

Advocate for the Petitioner : MR M CHANDA, MS R MEDHI,MR S CHOUDHURY

Advocate for the Respondent : SC, HOUSING AND URBAN AFFAIRS, MR. S P CHOUDHURY,MR. S BORAH

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners: Shri S. Choudhury

Advocates for the respondents: Shri SP Choudhury, SC-AUWS&SB

Date on which judgment is reserved :NA

Date of pronouncement of judgment: 06.10.2026

Whether the pronouncement is of the
operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

The instant writ petition under Article 226 of the Constitution of India has been filed with the following reliefs:

"*In the premises aforesaid, it is therefore respectfully prayed that Your Lordships may be pleased to admit this petition, call for the records and issue a Rule calling upon the respondents to show cause as to why:-*

a) a writ in the nature of Mandamus shall not be issued directing the respondents to hold DPC for consideration for promotion of the Petitioner from the grade of Assistant Engineer to the post of Assistant Executive Engineer w.e.f. 15.07.2012 retrospectively in the existing vacant post of Assistant Executive Engineer which was occurred and available since 2010 onwards with a further direction upon the respondents to grant all consequential benefits including consequential promotion to the existing vacant post of Executive Engineer with arrear salary benefit including seniority etc. with immediate effect without any further delay.

-And-

b) Hon'ble Court be pleased to pass an interim order directing the respondents not to take any coercive action against the writ petitioner during the pendency of the writ petition,

-And-

c) Cause or causes being shown and upon hearing the parties be pleased to make the Rule absolute and/or pass such other or further order(s) as Your Lordships may deem fit and proper."

2. As per facts projected, the petitioner was appointed as Assistant Engineer (Civil) of the Assam Urban Water Supply and Sewerage Board (hereinafter the Board) and was posted at Dhubri. From the year 2008 till 2014, the petitioner was also allowed to hold charge off and on of the post of Assistant Executive Engineer and from the year 2016, he has been given the additional charge of Assistant Executive Engineer without any financial benefit. It is also the case of the petitioner that the Board has adopted the Public Health Engineering Department Rules which prescribes a qualifying period of 5 years in the feeder *cadre* of Assistant Engineer to be considered for promotion to the post of Assistant Executive Engineer. It is also contended that on 26.08.2025 though a DPC was scheduled, the same was cancelled and the same was thereafter held on 25.11.2025. However, no recommendation for promotion has been made. It is also the case of the petitioner that there are sufficient vacancies - 9 nos. in the *cadre* of Assistant Executive Engineer in which the petitioner can be considered and promoted in accordance with law.

3. I have heard Shri S. Choudhury, learned counsel for the petitioner. I have also heard Shri S.P. Choudhury, learned Standing Counsel of the Board.

4. Shri S. Choudhury, learned counsel for the petitioner has submitted that there is no dispute to the aspect that the petitioner qualifies the minimum length of service in the feeder *cadre* of Assistant Engineer and is liable to be considered for promotion to the next higher grade of Assistant Executive Engineer. He has also submitted that from the year 2008 onwards, the petitioner has been allowed to hold charge of the higher post of Assistant Executive Engineer and such arrangement is on a permanent basis from the year 2016, however, without any additional financial benefits. He has submitted that though in the writ petition there is an alternative prayer for grant of benefits under the MACP Scheme, the primary claim of the petitioner is to consider and promote him to the next higher post.

5. Shri S.P. Choudhury, learned Standing Counsel of the Board has, however, submitted that the process of promotion is under consideration. In this regard, he has referred to the affidavit-in-opposition filed by the respondent No. 2 on 04.04.2026, more specifically, the averments made in paragraph 19 thereof, which reads as follows:

> "*19. That with regard to the statements made in paragraph 21 of the writ petition, the answering respondent begs to state that the process of promotion matter of Assistant Executive Engineer from Assistant Engineer is under process. The WP (C) No. 1400/2021 stands disposed of vide order dtd.26-11-2024 on withdrawal from the court. The process of promotion matter is under active consideration.*"

6. Shri S. Choudhury, the learned counsel for the petitioner has also placed before this Court the minutes of the meeting of the Board held on 19.10.2022 and by drawing the attention of this Court to the Gradation List in the *cadre* of

Assistant Engineer, it has been pointed out that the petitioner stands at Sl. No. 1 in the said List and therefore, would have the first claim for such consideration for promotion.

7. The submissions advanced at the Bar have been duly considered and the materials placed before this Court have been carefully examined.

8. Though promotion *per se* may not be an indefeasible right, every employee has a right for fair consideration for such promotion. It is not in dispute in the present case that the petitioner has completed the qualifying length of service, which is 5 years, in the *cadre* of Assistant Engineer and is eligible to be considered for promotion to the post of Assistant Executive Engineer. This Court has also taken note of the fact that the petitioner, in the substantive post of Assistant Engineer was also allowed to hold the charge of Assistant Executive Engineer off and on till the year 2014 and from 2016 on and almost permanent basis.

9. Considering the above, there would not be any impediment for considering the case of the petitioner for promotion to the next higher post of Assistant Executive Engineer.

10. Accordingly, the instant writ petition stands disposed of by directing the respondent No. 2 to take expeditious steps for convening a DPC and consider the case of the petitioner along with other aspiring candidates for filling up the vacancies in the *cadre* of Assistant Executive Engineer in accordance with law. Such exercise be undertaken and completed within a period of 3 (three) months from the date of receipt of a certified copy of this order.

11. The writ petition stands allowed, in the manner, indicated above.

12. A copy of the minutes of meeting held on 19.10.2022 which has been placed before this Court by Shri S. Choudhury, learned counsel for the petitioner is made part of the records.

13. Cost made easy.

JUDGE

Comparing Assistant