GAHC010049922021

2026:GAU-AS:14507

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

Case No. : WP(C)/2216/2021

GS 182858 M JUNIOR ENGINEER (E AND M) MANE NARAYAN HINDURAO AND 9 ORS.
MANE NARAYAN HIDURAO, HEAD QUARTER 1446 BCC (GREF), UNDER THE HEAD QUARTER CHIEF ENGINEER PROJECT UDAYAK, DOOMDUMA, DIST. TINSUKIA, PIN-786151.

2: GS 184910 L JUNIOR ENGINEER (E AND M)
MITHILESH KUMAR
1085 FIELD WORKSHOP (GREF)
23/BRTF
C/O. 99 APO
PIN-931085.

3: GS 176627 H JUNIOR ENGINEER (E AND M)
GULAB SINGH
HEAD QUARTER CE (P) HIMANK
C/O. 56 APO.

4: GS 179985 Y JUNIOR ENGINEER (E AND M)
G. SRINIWASA RAO
1053 FIELD WORKSHOP (GREF)
32/BRTF/PROJECT BEACON
C/O. 56 APO
PIN-931053.

5: GS 181263 L JUNIOR ENGINEER (E AND M)
PRADIP KUMAR YADAV
118 RCC (GREF)
C/O. 56 APO
PIN-931053.

6: GS 182857 M JUNIOR ENGINEER (E AND M)
JADAV VIKAS MAIKRAO
HEAD QUARTER R AND DESH (BRO)

C/O. 99 APO
PIN-931723.

7: GS 183226 W JUNIOR ENGINEER (E AND M)
DHAGE BHAGWAT NIVRUTTI
1052 FIELD WORKSHOP (GREF)
C/O. 56 APO
PIN-931053.

8: GS 185140 W JUNIOR ENGINEER (E AND M)
D. GOVINDA RAJU
HEAD QUARTER CE (P)
ROHTANG TUNNEL
C/O. 56 APO
PIN-931701.

9: GS 185704 N JUNIOR ENGINEER (E AND M)
NISHIKANTA MAJI
94 RCC (GREF)/38 BRTF/PROJECT DEEPAK
C/O. 56 APO
PIN-930094

VERSUS

THE UNION OF INDIA AND 10 ORS.
REP. BY THE SECRETRY TO THE GOVT. OF INDIA, MINISTRY OF SURFACE TRANSPORT, BORDER ROADS DEVELOPMENT BOARD, B WING, 4TH FLOOR, SENA BHAWAN, NEW DELHI-110011.

2:SECRETARY TO THE GOVT. OF INDIA

MINISTRY OF DEFENCE
NEW DELHI-110003.

3:DIRECTOR GENERAL BORDER ROADS

SEEMA SADAK BHAWAN
RING ROAD
DELHI CANT
NEW DELHI-10.

4:THE UNDER SECRETARY TO THE GOVT. OF INDIA

MINISTRY OF SURFACE TRANSPORT
BORDER ROADS DEVELOPMENT BOARD
B WING
4TH FLOOR
SENA BHAWAN

NEW DELHI-110011.

5:THE OFFICER IN CHARGE

GREF RECORDS
DIGHI CAMP
PUNE-15.

6:ADGBR (EAST)

GUWAHATI
BRO COMPLEX
LANKESHWAR
VIP ROAD
C/O. 99 APO
PIN-781014.

7:THE CHIEF ENGINEER

PROJECT HIMANK
C/O. 56 APO
PIN-931710

8:THE CHIEF ENGINEER

PROJECT BEACON
C/O. 56 APO
PIN-931053

9:THE CHIEF ENGINEER
PROJECT DEEPAK
C/O. 56 APO
PIN-930094

10:THE CHIEF ENGINEER

PROJECT ARUNAK
C/O. 99 APO
PIN-931717.

11:THE CHIEF ENGINEER

PROJECT UDAYAK
C/O. 99 APO
PIN-931715.

12:GS 181728 A JUNIOR ENGINEER (E AND M)
SIVARAMAIAH GURRAPU

WESTERN BASE WORKSHOP (GREF)
GREF STATION
PATHANKOT-145001

Advocate for the Petitioner : MR. P MAHANTA, MS. P SAHARIA

Advocate for the Respondent : ASSTT.S.G.I.,

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners: Shri P. Mahanta

Advocates for the respondents: Shri PS Lahkar, CGC

Date on which judgment is reserved :NA

Date of pronouncement of judgment: 29.09.2026

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

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

10(ten) nos. of petitioners have approached this Court in this petition under Article 226 of the Constitution of India, seeking the following relief:

"*In these premises aforesaid, it is therefore prayed that your lordships may graciously be pleased to admit this petition, call for the records, issue rule, calling upon the Respondents to show cause as to why a writ of mandamus and/or certiorari should not be issued as prayed for.*

And to show cause as to why the direction should not be issued to the to

consider the respondent authorities petitioners promotion and re-designation to the rank of junior Engineer (E&M) from the date of their promotion to the Charge Mechanic at per the date of effect similar to the other two Charge Mechanic re-designated to JE (E&M) GS 176550L Ch/Mech Mallesh R and GS 178253W Ch/Mech Ashok Kumar on the ground of seniority as well as Hon'ble Gauhati High Court's order dated 19/3/2015 passed in W.PO No. 3008/2014, whereby direction was given to the Union of India to re-designate the aforesaid two petitioners as JE (E&M) w.e.f the date of their promotion to the post of Charge Mechanic.

And to show cause as to why a directions should not be issued to the Respondent authorities to grant all the consequential benefits to the petitioners w.e.f the date of their promotion to the post of Charge Mechanic as per the notification No. BRDB/06/166/2010/GE-I dated 13/5/2010 issued by the BRDB whereby merged and re-designated the Group-B post in GREF to the rank of JE(E&M) by abolishing the rank of charge mechanic on recommendation of the 6th central pay commission.

And after entering of the parties cause and causes being shown your lordships may be pleased to pass such other order/ orders as your lordships may deem may deem fit and proper."

2. As per the facts projected, a notification was published on 13.05.2010 whereby there were amalgamations of certain categories of services. The petitioners are connected with four categories of services in Sl. Nos. 4 to 7, which were amalgamated as a single service with the nomenclature Junior Engineer (Electrical and Mechanical). The petitioners were Charge Mechanic in Sl. No. 6 in the said notification. The petitioners were promoted to the aforesaid post of Charge Mechanic on 15.01.2014. The claim of the petitioners is to give

them the benefit of the notification dated 13.05.2010 which has not been granted and accordingly, the instant petition has been filed for the relief quoted above.

3. I have heard Shri P. Mahanta, learned counsel for the petitioners. I have also heard Shri P.S. Lahkar, learned C.G.C. representing all the respondents, who have filed affidavit-in-opposition on 27.07.2022.

4. Shri Mahanta, learned counsel for the petitioners has submitted that there is no dispute with the promotion order of the petitioners as Charge Mechanic on 15.01.2014 and also on the aspect that certain posts including the post of Charge Mechanic were amalgamated into the post of Junior Engineer (Electrical and Mechanical) vide the notification dated 13.05.2010. He has also taken the support of a previous litigation instituted by two similarly situated persons claiming a similar benefit in a writ petition being WP(C)/3008/2014, instituted by them which was disposed of on 19.03.2015 directing for giving them the benefit of the notification dated 13.05.2010. He has further submitted that the said decision was upheld by the Hon'ble Supreme Court. The petitioners had represented to the authorities to give them the benefit. However, the authority, vide the impugned order dated 18.02.2021 had rejected the claim and immediately thereafter the instant writ petition has been filed.

5. He has submitted that the petitioners are not fence sitters and were diligently pursuing their remedies and the rejection order is apparently untenable in law and requires interference by the Court. He has also cited certain judgments to give similar benefits to similarly situated persons.

6. *Per contra,* Shri Lahkar, learned CGC has, at the outset, raised a preliminary objection on the maintainability of the writ petition on the ground of territorial jurisdiction. He has also submitted that all the writ petitioners are not

situated within the territorial jurisdiction of this Court and therefore the writ petition cannot be entertained. He has also submitted that the impugned order dated 18.02.2021 has cited reasons and accordingly this Court would not go into the adequacy of such reasons.

7. The learned CGC has also submitted that while the two petitioners in the earlier WP(C)/3008/2014 had three years Diploma course, the petitioners in the present case are having two years Diploma course and therefore are not similarly situated. In this connection, he has also drawn the attention of this Court to a Notification dated 30.11.2015 which prescribes for a limited departmental examination for promotion.

8. Rejoining his submission, the learned counsel for the petitioners has submitted that though, as a matter of fact, only 4 out of the 10 nos. of petitioners are serving within the territorial jurisdiction of this Court, the copy being marked to one of the authorities situated in Assam, cause of action would also lie within the jurisdiction of this Court.

9. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

10. Let this Court first deal with the objection regarding territorial jurisdiction. In this case, 10 nos. of petitioners have joined together espousing the same cause of action. Though, as a matter of fact, only 4 nos. of the petitioners are presently residing within the jurisdiction of this Court, this Court is of the opinion that the cause of action being identical, joining of the other petitioners in this petition would not cause any prejudice to the respondents to defend their case. This Court is of the further of the opinion that it would be against the interest of justice to non-suit the remaining 6 nos. of petitioners from this case which would only add to multiplicity of proceedings *qua* the same impugned

order which is not desirable. The Hon'ble Supreme Court in the case of ***Kusum Ignots & Alloys Limited Vs. UoI*** reported in ***(2004) 6 SCC 254*** has interpreted the aspect of territorial jurisdiction in a liberal manner in the following words:

> "*27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority."*

11. Coming to the merits of the case, it is not in dispute that a Notification was published on 13.05.2010 regarding amalgamation of certain categories of posts and the posts against Sl. Nos. 4 to 7 in the said notification were merged / re-designated as Junior Engineer (Electrical and Mechanical). Amongst the said categories, against Sl. No. 6, there is a post of Charge Mechanic (Diploma holder) and it is not in dispute that all the petitioners were promoted as Charge Mechanic on 15.01.2014. While it clearly appears that on such promotion in the year 2014, the petitioners ought to have been given the benefit of Junior Engineer (Electrical and Mechanical), an objection has been made that the petitioners are not similarly situated with the 2 incumbents who were petitioners in WP(C)/3008/2014.

12. A perusal of the order dated 19.03.2015 passed in WP(C)/3008/2014 would show that those incumbents were also Diploma holders and holding the post of Charge Mechanic who were directed to be given the benefits of Junior Engineer in terms of the notification dated 13.05.2010. It is not in dispute that the aforesaid order was upheld even by the Hon'ble Supreme Court.

13. Let this Court now deal with the impugned order dated 18.02.2021 whereby the claim of the petitioners has been rejected. While the learned CGC has contended that the said order contains reasons, a bare perusal of the reasons cited is only a cursory mention that the present petitioners are not similarly situated. For ready reference, the relevant observations made in the order dated 18.02.2021 are extracted hereinbelow:

> "*5. It is pertinent to mention here that the Hon'ble Gauhati High Court at Guwahati had delivered the judgement in Writ Petition (C) No 3008/2014 filed by GS-176550L CHMECH Mallesh R and GS-178253W CHMECH Ashok Kumar for upgradation to Junior Engineer (Electrical & Mechanical) and grant them all consequential benefits arising out of such re-designation wef the date they were appointed as CHMECH.* ***The above Judgement/Order was meant for only two petitioners as mentioned above and not to all similarly situated personnel****."*

14. There is not even a whisper as to how the present petitioners are not similarly situated, not to talk about any difference in the nature of the Diploma obtained by the petitioners. At this stage, the learned counsel for the petitioners has further clarified that the two years Diploma course is obtained from the Military Engineering College, Pune, which is equivalent to a three years Diploma course awarded by any Polytechnic. Without even going to the said aspect of the matter, this Court, on a careful perusal of the affidavit-in-opposition filed by

the respondent nos. 1 to 11 on 27.07.2022, has found that the said aspect has not even been taken as a matter of defence. The only aspect taken is that the petitioners are two years Diploma holders. But, how they differ from the petitioners in WP(C)/3008/2014 has not been stated.

15. In any case, it is trite law that by means of any affidavit, the case of a party cannot be improved. In this regard, reference may be made to the case of ***Mohinder Singh Gill & Anr. Vs. Chief Election Commissioner, New Delhi & Ors.,*** reported in ***(1978) 1 SCC 405,*** wherein the landmark case of ***Commissioner of Police, Bombay Vs. Gordhandas Bhanji,*** reported in ***AIR 1952 SC 16*** was also relied upon. The following excerpts are of relevance and extracted hereinbelow:

> *"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In Gordhandas Bhanji (AIR 1952 SC 16) (at p. 18):*
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> > *"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed*

and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older."

16. The issue involved having been deliberated and decided by this Court in WP(C)/3008/2014 decided on 19.03.2015 and the said decision being upheld by the Hon'ble Supreme Court, this Court has no option but to follow the said judgment. In any event, a case for interference is clearly made out from the facts and circumstances.

17. In view of the above, the writ petition stands allowed and the petitioners are directed to be given the benefits of the notification dated 13.05.2010. This Court, however, clarifies that such benefit till date has to be given notionally only i.e. for seniority and fitment in the appropriate scale. The same be done expeditiously and preferably within a period of 2(two) months from the date of receipt of a certified copy of this order.

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

19. Cost made easy.

JUDGE

Comparing Assistant