
(2003) 04 GAU CK 0058
In the Gauhati High Court
Case No : Writ Petition (C) . No. 4596 of 2000

Bijoy Bhusan Roy

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 02-04-2003

Acts Referred:

Citation : (2003) 2 GLT 302

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : B.K. Sharma, S. Sarma and U.K. Goswami, for the Appellant; R.K. Bora, for the Respondent

Judgement

R. Gogoi, J.—Heard Mr. B.K. Sharma, learned Senior Counsel for the Petitioner and Mr. R.K. Bora, learned Govt, Advocate, Assam.

2. The Petitioner was appointed as a muster roll worker in the establishment of the Assistant Executive Engineer, Irrigation Department, Silchar in the year 1983. The Petitioner claims to be in continuous employment since then. The materials brought on record on behalf of the writ Petitioner would go to show that the Petitioner was allowed to serve as Lower Division Assistant in the establishment in which he was working. As the fortuitous services of the writ Petitioner have been continued for nearly two decades and no regularisation has been forthcoming the instant recourse has been made by means of this writ petition.

3. Mr. Sharma, learned Senior Counsel appearing for the writ Petitioner, in support of the prayers made, has sought to place reliance on the Government Circular dated 20th April, 1995, which contemplates consideration of cases of ad hoc/muster roll workers/casual employees under the State Government for regularisation provided they have joined services prior to 01.04.1993. The Petitioner undoubtedly falls under the purview of the Office Memorandum/ Government Circular dated 20.4.1995 if the claim of the writ Petitioner that he

was appointed in the year 1983 is taken to be correct, a course which this Court is inclined to adopt in the absence of any affidavit filed by the State Respondents. Learned Counsel for the Petitioner further contends that even de hors the Circular, on principles of equity and fair play, as the Petitioner has been rendering nearly 20 years of service by now, his services should have been regularised. It is further submitted by the Petitioner that as there has been an apparent violation of the principles of fair play, the Petitioner would be entitled to retrospective regularisation of his services at least from the date on which the Petitioner was allowed to discharge the duties of Lower Division Assistant against the vacant post of Lower Division Assistant as stated in the order dated 1.12.1997(Annexure-4).

4. The submissions advanced by the learned senior Counsel for the Petitioner have been duly considered. Long years of service rendered by an incumbent has been understood by several judicial pronouncements to be a just basis for regularisation of such services.

5. In the instant case, in absence of any opposition by the State Respondents, it must be taken as correct that the Petitioner has rendered continuous service from the year 1983. Twenty years of service, in the considered view of the Court, should, by itself be sufficient to order for the regularisation of the concerned incumbent. Consequently, this writ petition shall stand allowed with the direction that within two months from today, the appropriate authority in the State Government shall take steps to regularise the services of the Petitioner and in doing so the authority will consider the date/dates from which the Petitioner could have been regularised and on that basis grant him retrospective regularisation of service but without any financial benefits.

6. With the above observations and directions, this Writ Petition stands closed.