
(2016) 05 GAU CK 0019
In the Gauhati High Court
Case No : W.P. (C) No. 575 of 2014

Gopal Chetri (Dr.)

APPELLANT

Vs

State of Assam and Ors.

RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Citation : (2016) 4 GauLJ 743 : (2016) 3 GauLT 268

Hon'ble Judges : Manojit Bhuyan, J.

Bench : Single Bench

Advocate : Mr. T.J. Mahanta and Mr. P.P. Dutta, Advocates, for the Appellant; Mr. L.N. Dihingia, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Manojit Bhuyan, J.— Heard Mr. T.J. Mahanta, learned Senior Counsel representing the petitioner, assisted by Mr. P.P. Dutta and Mr. L.N. Dihingia, learned counsel representing respondent Nos. 1 and 3. There is no representation on behalf of respondent No. 2 i.e. Forest Department.

2. By Notification dated 09.06.1999 the petitioner Dr. Gopal Chetri was appointed as Wildlife Research Officer in the scale of pay of Rs. 4390/-(four thousand three hundred ninety) and posted at Manas National Park, Barpeta Road. The petitioner had occasion to institute WP(C) No. 1066/2012 claiming a higher pay scale equivalent to that of a Research Officer serving at Kaziranga National Park. The case of the petitioner is that although he is posted at Manas National Park as Wildlife Research Officer, he has been discharging duties and functions of a Research Officer. In fact, the Forest Department itself has recognised that there are only 2(two) Research Officers including the petitioner herein-1(one) serving at Kaziranga National Park and the other at Manas National Park. In the earlier round of litigation this Court had noticed that the Assam Pay Commission, 2008 had recommended that Research Officers posted in Wildlife Sanctuaries be placed in the Grade pay of Rs. 5900/-(five thousand nine hundred). The representation filed by the petitioner claiming equivalent pay scale as that of a

Research Officer was also noticed. A direction was made to the Forest Department to take a decision on the representation of the petitioner dated 12.4.2010, having regard to the recommendation made by the Assam Pay Commission and as suggested by the Pay Anomaly Committee within 2(two) months after affording personal hearing to the petitioner.

3. Pursuant thereto, an order was passed on 3.7.2013 under the hand of the Principal Secretary to the Government of Assam, Environment & Forest Department, declining the claim of the petitioner. The petitioner was held not to be entitled to the grade pay of Rs. 5900/-(five thousand nine hundred) on grounds that he has been appointed as a Wildlife Research Officer and not as Research Officer. Imputations has also been made that all along the petitioner has been misleading the Department by claiming to be a Research Officer. This order dated 3.7.2013 is assailed in the present petition.

4. Mr. T.J. Mahanta, learned Senior Counsel submits that the impugned order has been passed as a matter of course without delving into the relevant facts and the stand of the Department itself. On the other hand, Mr. Dihingia submits that the appointment order dated 9.6.1999 itself shows that the petitioner was appointed as Wildlife Research Officer in the scale of pay of Rs. 4390/-(four thousand three hundred ninety), now revised to the pay of Rs. 5400/-(five thousand four hundred). According to Mr. Dihingia there is no anomaly in the scale of pay of Wildlife Research Officer to that of Research Officer. In other words, whereas the pay scale of Wildlife Research Officer is placed in Pay Band 4 with Grade pay of Rs. 5400/-(five thousand four hundred), the scale of pay of a Research Officer, which also falls in the Pay Band 4 carries a Grade pay of Rs. 5900/-(five thousand nine hundred).

5. In the course of the proceeding, Mr. Mahanta also makes reference to the statements made in paragraphs 9 and 13 of the affidavit-in-opposition filed by the Forest Department to say that process has been initiated for up-gradation of 2(two) numbers of Wildlife Research Officer, both at Kaziranga National Park and Tiger Project, Manas, to the post of Senior Research Officer, which apparently carries a higher pay scale. The said proposal have already been sent to the Government by the Principal Chief Conservator of Forests, Assam. According to Mr. Mahanta, whereas on one hand proposal has been mooted for up-gradation of the petitioner to the post of Senior Research Officer, which is a higher post than a Research Officer, the pay scale of the petitioner have remained stagnant at Rs. 5400/-(five thousand four hundred) instead of Rs. 5900/-(five thousand nine hundred).

6. From the materials available on record there is a letter of the Principal Chief Conservator of Forests, Assam dated 20.9.2008 which discloses that presently there are 2(two) Research Officers namely, Sri Rabindra Sarma, Wildlife Research Officer, Kaziranga National Park and the petitioner herein i.e Dr. Gopal Chetri, Wildlife Research Officer, Tiger Project, Manas. The said letter also discloses that the said 2(two) Research Officers are somehow managing the research activities

of the entire Protected Areas of Assam and for managing the research activities they have obtained technical skills relating to research in Wildlife with Post Graduate Diploma in Wildlife Management. The letter also indicates that both the Officers are competent to conduct management-based scientific research in Protected Areas of Assam as well as to take part in decision-making and planning for conservation of biodiversity of the State. The letter also makes mention of the request made to the Government to upgrade the post of Research Officer of Kaziranga National Park and Tiger Project, Manas to the post of Senior Research Officer in the line of the Assam Planning Service Rules of the Research Officers, 1990.

7. According to Mr. Mahanta the impugned order that had been passed on 3.7.2013 was done by ignoring the stand taken by the Authority itself on 20.9.2008. Without any doubt, the petitioner herein has been discharging functions of a Research Officer at Manas and most pertinently, there is no such post as Wildlife Research Officer at Manas. For all intents and purposes, the petitioner is discharging functions as a Research Officer and to that end claims equivalent scale of pay to that of a Research Officer in the Grade pay of Rs. 5900/-(five thousand nine hundred).

8. The grievances raised by the petitioner as well as the lacuna appearing in the impugned order dated 3.7.2013 needs to be addressed by the department. It is for the department to take a final decision on the entitlement of scale of pay of the petitioner commensurate to the work that he is discharging and also having regard to the observations made in the aforesaid letter dated 20.9.2008. While directing the respondent/authority to re-visit the issue as regards the discrimination alleged, it is made clear that the final decision will be rendered by the respondent/authority on this aspect within a period of 2 (two) months from today. It is expected that the respondent/authority shall take a decision by considering all aspects of the matter, particularly the observations made in the letter dated 20.9.2008 of the Principal Chief Conservator of Forests, Wildlife, Assam.

9. In view of the above, the impugned order dated 3.7.2013 is declared null and void and the Writ Petition stands disposed of to the extent indicated above. No costs.