

(2020) 09 GAU CK 0033
In the Gauhati High Court
Case No : Case No. : WP(C) 3802 Of 2020

Prabin Talukdar

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 30-09-2020

Acts Referred:

Citation : (2020) 09 GAU CK 0033

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : M K Choudhury

Final Decision : Disposed Off

Judgement

1. Heard Mr. MK Choudhury, learned senior counsel for the petitioner and Mr. D Nath, learned Additional Senior Government Advocate for the respondents.

2. The petitioner is presently serving as a Junior Engineer in the PWD, Assam and is claiming a promotion to the cadre of Assistant Engineer (civil) on the strength of the petitioner having obtained a graduate degree. As per the rules, certain posts in the cadre of Assistant Engineer (civil) are to be filled up by promotion from amongst the Junior Engineers who have in the meantime acquired their graduate degree and such promotion according to the Rules is to be construed as direct recruitment.

3. Be that as it may, the petitioner had obtained his graduate degree from the Institute of Civil Engineers (India) Ludhiana. A question had arisen earlier as to whether the qualification obtained from the Institute of Civil Engineers (India) Ludhiana can be construed to be equivalent to the degree of AMICE(I). If it is to be construed to be equivalent to the degree of AMICE(I), it has also to be construed that the petitioner has the required graduate degree. The question whether the degree obtained from the Institute of Civil Engineers (India) Ludhiana can be construed to be a degree equivalent to that of AMICE(I) was decided by this Court in the judgment and order dated 15.11.2017 in WP(C)

No.5042/2017, wherein a conclusion was arrived that all such professional degrees, which were obtained prior to 31.05.2013 are to be considered to be equivalent to a B.E degree.

4. Accordingly, the petitioner having obtained his degree from the Institute of Civil Engineers (India) Ludhiana, the same has to be construed to be a degree equivalent to a B.E degree. The claim of the petitioner for being promoted to the cadre of Assistant Engineer (civil) stood rejected by the Commissioner and Special Secretary to the Government of Assam in the PWD dated 16.08.2018 and subsequently by the order dated 13.08.2019 of the Deputy Secretary to the Government of Assam in the PWD (Roads) Department. Being aggrieved, the present writ petition is instituted.

5. We have gone through the orders dated 16.08.2018 and 13.08.2019 and have noticed that the aforesaid aspect of the matter that the degree obtained from the Institute of Civil Engineers (India) Ludhiana has been declared to be equivalent to a B.E degree had not been taken into consideration by the two authorities.

6. Mr. D Nath, learned Additional Senior Government Advocate appearing for the respondent PWD states that possibly the judgment dated 16.11.2017 in WP(C) No.5042/2017, which was rendered in respect of Irrigation Department was not before the authorities.

7. In any view of the matter, as the said aspect of declaring the equivalent B.E degree had not been taken into consideration, we deem it appropriate that instead of issuing notice, the matter can be remanded back to the Commissioner and Special Secretary to the Government of Assam in the PWD for a reconsideration of the entire matter.

8. Accordingly, the two orders dated 16.08.2018 and 13.08.2019 are interfered with and the matter stands remanded back to the Commissioner and Special Secretary to the Government of Assam, PWD to consider the case of the petitioner as regards his claim for promotion to the cadre of Assistant Engineer (civil) on the strength of the degree that he is presently holding. The Commissioner and Special Secretary may examine the matter and pass a reasoned order. The reasoned order be passed within a period of two months from the date of receipt of a certified copy of this order. The petitioner while approaching the Commissioner and Special Secretary, shall also provide him with a copy of the writ petition as well as the judgment and order of this Court dated 16.11.2017 passed in WP(C) No.5042/2017.

In terms of the above, the writ petition stands disposed of.