

(2004) 03 GAU CK 0010
In the Gauhati High Court
Case No : Writ Appeal No. 387 of 2003

Shri M. Thaimon Singh and Others	Vs	APPELLANT
Shri L. Surchandra Singh, AE (Mech), PWD at present Ad-hoc EE (Mech) and Others		RESPONDENT

Date of Decision : 31-03-2004

Acts Referred:

Citation : (2004) 03 GAU CK 0010

Hon'ble Judges : P.P. Naolekar, C.J;Ranjan Gogoi, J

Bench : Division Bench

Advocate : D.K. Mishra, H. Roy, K. Goswami, N.P. Singh and Th. M. Singh, for the Appellant; A. Nilamani Singh, N.K. Singh, H.S. Paonam, B. Singh and M.G. Singh, for the Respondent

Final Decision : Dismissed

Judgement

P.P. Naolekar, C.J.—As common questions of facts and laws are involved in these appeals they are heard and decided by a common judgment.

2. We have heard learned counsel for the respective parties. The Principal Respondents herein have challenged the seniority list dated 31.1.2000 of the Assistant Engineers in the Public Works Department, Government of Manipur. The Principal Respondents were promoted from the post of Sectional Officers Grade-I to the post of Assistant Engineers on ad hoc basis on different dates from the year 1976 to 1981, whereas the appellants were direct recruits to the posts of Assistant Engineers, they being appointed on different dates in the year 1980 and 1986. We are not going to the details of the appointment of the promotee officers or the direct recruits, because of the fact that in view of the judgments passed by the High Court in different cases the Principal Respondents/promotee Officers were directed to be regularised in their services on the posts of Assistant Engineers from the dates, which are prior to the dates of direct recruitment of all the appellants.

3. In the Writ Appeal No. 385/03 the promotee Officers were directed to be regularised with effect from 30.10.76 vide order dated 23.1.92 passed in Civil Rule No. 2372/90 and the consequential order was issued on 22.9.92.

4. In the Writ Appeal No. 386/03 the promotee Officer was directed to be regularised with effect from 30.10.76 vide order passed in Civil Rule No. 639/90 and the consequential order was issued on 18.2.92.

5. In the Writ Appeal No. 387/03 the promotee Officer was directed to be regularised with effect from 9.7.79 vide order dated 18.12.91 passed in Civil Rule No. 640/90 and the consequential order was issued on 17.2.92

6. In the Writ Appeal No. 393/03 the promotee Officer was directed to be regularised with effect from 29.11.79 vide order dated 13.9.91 passed in Civil Rule No. 339/91 and the consequential order was issued on 20.12.91.

7. In Writ Appeal No. 255/01 the promotee Officer was directed to be regularised with effect from 26.7.83 vide order dated 5.5.89 passed in Civil Rule No. 392/88 and the consequential order was issued on 2.9.89.

8. In Writ Appeal No. 384/03, the promotee officer's case is covered in the Writ Appeal No. 387/03.

9. It is submitted by the learned counsel for the appellant Mr. DK Mishra that the judgments delivered by the High Court directing regularisation of the promotee Officers was not challenged by the appellants at the relevant time, because they were not affected at that time in the matter of their seniority. Whenever the seniority of the direct recruits was affected by orders passed by the Court in favour of promotee officers, they were made subject matter of the challenge and the Court reviewed these orders. Therefore, the orders passed by the High Court could not be given effect to treat the promotee officers to be regularised in their service from the dates as per the direction given by the High Court, and in consequences thereof, as per orders issued by the State Government regularising their services.

10. From the aforesaid, it is apparent to us, that for whatever reasons the orders passed by the High Court in the matter of regularisation of the services of the promotee officers covered under the writ appeals, were not challenged by the State Government and has attained finality. The appellants also choose not to file appeals against those orders and moved applications for review of those orders as has been done in other cases. In the aforesaid circumstances, the promotee officers shall be taken to be regularly promoted from the date they have been regularised in the post of Assistant Engineers. In the matter of seniority, without there being any impediment under Rules, the seniority shall be counted in all circumstances from the date of regular appointment on the posts.

11. The date of regular appointment of the promotee officers have been taken into consideration for placement of their positions in the seniority list as they are senior to the direct recruits on the post of Assistant Engineers, and therefore,

we do not find that the learned Single Judge has committed any error in directing the Government to place them in the seniority list in accordance with the date from which they have been regularised on the promoted post.

12. For the aforesaid reason, we do not find any good or sufficient reason to interfere with the order passed by the learned Single Judge and the appeals are dismissed. However, there shall be no order as to costs.