
(2015) 05 GAU CK 0083
In the Gauhati High Court
Case No : W.A. No. 09 (AP) of 2013

Suring Pakba

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 15-05-2015

Acts Referred:

Citation : (2015) 5 GLT 4

Hon'ble Judges : Biplab Kumar Sharma and Manojit Bhuyan, JJ.

Bench : Division Bench

Advocate : M. Batt, N. Bakhang, G. Tadi, M. Pussang and M. Taman, Advocates, for the Appellant; G. Tarak and M. Babla, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

Biplab Kumar Sharma, J.—This appeal is directed against the Annexure-XVI order of the learned Single Judge dated 26.06.2013 passed in WP (C) 17 (AP) 2011. By the said order the prayer of the petitioner/appellant to set aside the order dated 27.8.2010 granting officiating appointment to the Respondent No. 6 as Work Inspector has been rejected. According to the petitioner/appellant, he being senior to the Respondent No. 6, the said Respondent could not have been given officiating appointment without considering his case. While according to the petitioner/appellant he was appointed as Semi-skilled Work Inspector in the year 1993 but according to the Respondents, both the official and private, the Respondent No. 6 was appointed as such in the year 1992 in Ziro Division and thereafter in exigency of service he was placed at Daporijo Division. Referring to the documents annexed to the Writ Appeal, Mr. M. Batt learned counsel for the appellant submits that admittedly the appellant is senior to the respondent No. 6. On the other hand Mr. G. Tarak, learned counsel representing the respondent No. 6 and so also Mr. R.H. Nabam, learned. Addl. Advocate General, Arunachal Pradesh submits that as per certificate issued by issued by the jurisdictional Executive Engineer, the respondent No. 6 is senior to the petitioner as he was appointed in 1992 whereas the appointment of the petitioner/appellant is in

1993. Another ground urged by them is that while the petitioner/appellant was working as Casual Labour the Respondent No. 6 was working as Casual Work Inspector. In the counter affidavit filed by the official respondents in the writ proceeding, a stand was taken that the respondent No. 6 was appointed on the recommendation of the Controlling Officer i.e. the Executive Engineer vide the letter dated 25.7.2009. It was also stated that the respondent No. 6 was appointed purely on temporary basis and on consideration of his good performance. However, no statement was made as to whether the case of the petitioner/appellant was also recommended by the authority and for that matter whether his case was also considered for appointment like that of respondent No. 6.

2. The petitioner/appellant has referred to Annexure-4 series to the document annexed to the Writ Appeal to show that the respondent No. 6 was appointed in 1996 and not in 1992. In the seniority list of the Casual Labour Staff the respondent No. 6 was shown to have been appointed in October, 1996. On the other hand the writ petitioner/appellant was shown to have been appointed in November, 1993. However the respondents have placed reliance on the Certificate dated 2.10.1996, purportedly issued by the Executive Engineer, Ziro certifying that the respondent No. 6 was first appointed in January, 1992. In the counter affidavit filed by the respondent No. 6 another document was annexed which is admittedly issued by the Executive Engineer Water Resources Division, Daporijo on 5.2.2011 certifying therein that the respondent No. 6 was initially appointed as Casual Work Inspector in January, 1992 and thereafter he was again engaged under IFCD Division, Daporijo in the year 1996. In response to the said position, the petitioner referred to the information derived from RTI application from the Ziro Division indicating that the furnished list of Casual Labour working during the period from 1.1.1990 to 31.12.1993 do not show the name of the respondent No. 6. It is in the above circumstances, the petitioner/appellant has claimed that he is senior to the respondent No. 6 and consequently his case is also required to be considered for appointment as Work Inspector like that of respondent No. 6.

3. All the above are disputed questions of facts.

4. Upon hearing the learned counsel for the parties, we are of the considered opinion that irrespective of the impugned judgment dated 26.6.2013 passed in W.P.(C) No. 17 (AP)/2011, the Respondent No. 3, namely, the Chief Engineer, Water Resources Department, Government of Arunachal Pradesh and Respondent No. 4, the Superintending Engineer, Water Resources Circle, Daporijo, District Upper Subansiri, Arunachal Pradesh, in consultation with the concerned authorities shall ascertain as to whether the respondent No. 6 was appointed in 1996 or in 1992. Depending upon the outcome of the said exercise, if it is found that in fact the petitioner is senior to the respondent No. 6, his case shall also be considered for appointment as Work Inspector like that of respondent No. 6 from the same date, applying the same yardsticks and parameters as was followed

while considering the case of respondent No. 6. Although a stand was taken that the petitioner/appellant was working only as Casual Labour but on perusal of the document we find that he was already working as Work Inspector like that of respondent No. 6.

5. Let the required exercise in terms of this order be carried out by passing a speaking order, as expeditiously as possible, preferably within 6 (six) months. This petition stands disposed of in the above manner without, however, any order as to costs.