

GAHC010114822015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 1754/2015

1:XXX XXX XXX

VERSUS

1:IN RE - THE GOVERNMENT OF ASSAM and ANR.
REP. BY THE CHIEF SECY., DISPUR, ASSAM

2:THE SECY. HOME and POLITICAL DEPTT.
GOVT. OF ASSAM
DISPUR
ASSAM

3:THE UNION OF INDIA
REPRESENTED BY I.THE MINISTRY OF HOME AFFAIRS. II. THE MINISTRY
OF EXTERNAL AFFAIR

Advocate for the Petitioner : AMICUS CURIAE

Advocate for the Respondent : MR.S C KEYAL

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

29.10.2019

Mr. H. K. Das, learned counsel has appeared on behalf of Mr. S. S. Dey,
learned senior counsel who is the Amicus Curiae appointed in this case. I have

also heard Mr. D. Mazumdar, learned Additional Advocate General, Assam; Mr. U. K. Nair, learned senior Standing Counsel, Foreigner's Tribunal; Mr. S. C. Keyal, learned Assistant Solicitor General of India representing the Union of India; Mr. R. Borpujari, learned Standing Counsel, Finance Department, Assam as well as Mr. J. Payeng, learned Standing Counsel, FT.

Mr. D. K. Das, learned Registrar (Judicial), Gauhati High Court; Mr. N. Barua, Secretary to the Govt. of Assam, Home and Political Department and Mr. Mukut Saikia, Superintendent of Police (Border) are present along with Mr. Nivedan Das Patowary, Deputy Secretary, Home and Political Department, Assam.

Perused the order dated 24.09.2019 passed by this Court. The issues have already been identified and the concerns have also been adequately flagged in the order dated 24.09.2019.

Issue Nos.3, 4 and 5 :-

Mr. Barua, Secretary to the Govt. of Assam, Home and Political Department has stated before this Court that the concurrence of the Finance Department has already been received and therefore, the salary of all the newly appointed Members of the Foreigners Tribunals would be released within a period of two weeks from today. Likewise, Mr. Barua has further submitted that the necessary approval of the competent authority for issuing orders of posting of the Members appointed vide Notification dated 11.09.2019 is under progress and the said process is also likely to be completed within a period of two weeks from today. This Court has also been apprised by the Home Secretary that the supporting staff, to be posted in the various newly constituted Foreigners'

Tribunals, would also be put in place simultaneously with the issuance of orders of postings of the newly recruited Members. The aforesaid statements made by the Home Secretary lends assurance to this Court that things are progressing in the right direction. Mr. Nair, learned senior counsel appearing for the FT has also assured this Court that the aforesaid process will be completed in a time-bound manner.

Mr. Barua has also informed this Court that the process for appointment of Assistant Government Pleaders (AGP) in each of the Tribunals is also under progress and within a period of one month from today, the appointment orders would also be issued to the selected candidates.

At this stage, a suggestion has been made to impart induction training to the Assistant Govt. Pleaders, to which, the learned counsel for the parties as well as the officials present in this court, have responded to in a positive manner. There is a consensus amongst the parties that a "two day" orientation programme be organized for imparting basic training to the Assistant Government Pleaders before they resume duties upon their appointments. Accordingly, Secretary to the Govt. of Assam, Home and Political Department, in consultation with the Director, Judicial Academy and the Registrar (Judicial) of this Court would take necessary steps for organizing a two day orientation programme for the newly recruited AGPs.

Issue No.7 :-

Mr. Nair submits that no post in Grade-III category is presently available for accommodating the wife of Late Bijoy Kumar Das on compassionate ground. However, the learned senior counsel has assured this Court that as and

when a vacancy in the Grade-III category would become available, her case would be considered, if necessary by relaxing the norms of educational qualification. Mr. Nair submits that until such time an alternative arrangement is made, the State be permitted to accommodate her in the post of Data Entry Operator.

Leave, as prayed for, is granted, without prejudice to the rights of Smt. Monica Mahanta Das, wife of Late Bijoy Kumar Das to secure appointment against a Grade-III post as and when a vacancy arises. The respondents to take steps for compliance of the order of this Court in this regard, as expeditiously as possible.

Issue No.9 :-

Mr. S.C. Keyal, learned Assistant Solicitor General of India, submits that the proposal for amendment of certain provisions of the Foreigners Tribunal (Order) 1964 is still under active consideration by the department of Home, Government of India and therefore, four weeks further time is required to obtain instruction and apprise this Court about the decision of the Government.

Prayer allowed.

Other Issues :-

Mr. D. K. Das, Registrar (Judicial), has produced a copy of the minutes of the meeting held on 24.10.2019 between him and the Secretary to the Govt. of Assam, Home and Political (B) Department for the purpose of drawing up the modalities for monitoring complaints received against the Members of the Foreigners Tribunals.

On the joint request of Mr. Barua and Mr. Das, three weeks further time is granted for finalizing the modalities and placing those before this Court for consideration.

This Court has noticed that there is no mechanism to look into the problems faced by the Members of the Foreigners Tribunal nor is there any standard procedure in place so as to apprise this Court on the day to day functioning of the Foreigners Tribunals. The learned Additional Advocate General Assam, Mr. D. Mazumdar and Mr. U. K. Nair, learned senior Standing Counsel, FT, is therefore, requested to initiate a consultative process so as to indicate as to what procedure would be appropriate in this regard. The aforesaid issue be also brought to the notice of Mr. S. S. Dey, learned Amicus Curiae appointed in this case.

On the request of all the parties, let this matter be listed again on 26.11.2019 at 3.00 P.M.

JUDGE

Comparing Assistant