

WP(C) 5103/2008

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. P.P. Baruah, learned counsel for the petitioner as well as Mr. Tanti, learned Standing Counsel, IWT.

The grievance of the petitioner is that he has not been promoted to the rank of Assistant Executive Engineer without any reason.

Mr. Tanti, learned Standing Counsel has been furnished with the written instruction dated 27.1.2009 by the Government of Assam in the Transport Department. As per the said written instruction, a vigilance case is pending against the petitioner and thus, his case although was considered by the Selection Committee was kept under seal cover.

In Union of India Vs. K.V. Janaki Raman reported in (1991) 4 SCC 109, the Apex Court has held that sealed cover procedure can only be adopted only in case of issuance of charge sheet in departmental proceeding and framing of charge in a criminal proceeding. Following the aforesaid decision, this Court under similar circumstances passed the order dated 25.5.2006 in WP(C) No. 5795/2004 concerning the same Department, in which direction was issued to consider the case of the petitioner.

It is submitted by Mr. Baruah, learned counsel for the petitioner that pursuant to the said order, the petitioner in that case has already been promoted.

In view of the above, this writ petition is disposed of in terms of the said order dated 25.5.2006 passed in WP(C) No. 5795/2004. The respondents shall now consider the case of the petitioner for promotion to the post of Assistant Executive Engineer irrespective of pendency of vigilance case.

Entire exercise shall be carried out as expeditiously as possible, preferably within two months from today. In the event of the petitioner is found suitable for such promotion, it will be effective from the due date.

Writ petition is disposed of.