

GAHC010161372022



2026:GAU-AS:15596

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

Case No. : WP(C)/5473/2022

MONALISHA BHATTACHARYYA
WIFE OF SRI PRANJAL KAUSHIK,
RESIDENT OF HOUSE NO. 88,
NARAYAN BHAWAN,
CHATRAKAR, UZANBAZAR,
GUWAHATI IN THE DISTRICT OF KAMRUP(M), ASSAM, PIN- 781001.

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LIMITED (APDCL) AND
ANR
REPRESENTED BY ITS MANAGING DIRECTOR, BIJULEE BHAWAN,
PALTANBAZAR, GUWAHATI- 781001, ASSAM.

2:THE CHIEF GENERAL MANAGER (HRA)
THE ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI- 781001
ASSAM

Advocate for the Petitioner : MR. U K NAIR, MR A CHETIA,MS N NEWME,MR. A BORO,MR
A CHAKRABORTY

Advocate for the Respondent : SC, APDCL,

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners: Shri A. Chakraborty

Advocates for the respondents: Shri KP Pathak, SC-APDCL

Date on which judgment is reserved :**29.09.2026**

Date of pronouncement of judgment: **14.10.2026**

Whether the pronouncement is of the
operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER

The instant writ petition has been filed challenging a communication dated 01.06.2022 issued by the respondent authorities whereby the petitioner has been directed to undergo course in Human Resource (in short, HR) in order to remove irregularities which has been noticed in her appointment.

2. The facts, as projected by the petitioner, in brief, are that an advertisement was published on 15.05.2011 for direct recruitment to the post of Assistant Manager (HR). The advertisement had prescribed the eligibility criteria as Master of Business Administration /Post Graduate Diploma in Management (HR). The petitioner claims to be eligible for the said post by having secured a full two-years degree in Master of Business Administration (Finance and Marketing) along with Post Graduate Diploma in Management (Human Resource) and an additional qualification of LLB and had applied for the said post. The petitioner was accordingly found to be eligible and accordingly, she was appointed vide an order dated 12.03.2012. She had joined in the said post and was granted promotions from time to time. She was also given to hold the charge of Assistant General Manager (HR) and is presently holding the post of

Deputy General Manager (HR). The petitioner claims to be eligible for regular promotion to the post of Assistant General Manager (HR). However, as no action was taken for such promotion, the petitioner had submitted a representation. However, the respondent authorities, vide the impugned communication dated 01.06.2022 had directed the petitioner to undergo course of HR which was mentioned in the eligibility criteria of the advertisement to remove irregularities noticed in her initial appointment.

3. It is contended that such action is wholly unauthorized and illegal inasmuch as, at no point of time in the service career of 10 years, the issue was ever raised or the petitioner was intimated regarding any irregularity in her appointment for not meeting the eligibility criteria in terms of the advertisement dated 15.05.2011. It is also contended that all her documents were duly verified by the respondent authorities before declaring her to be eligible and finding her to be suitable for the appointment which was accordingly done.

4. I have heard Shri A. Chakraborty, learned counsel for the petitioner. I have also heard Shri KP Pathak, learned Standing Counsel, APDCL.

5. Shri Chakraborty, learned counsel for the petitioner has submitted that after her appointment as Assistant Manager (HR), vide order dated 12.03.2012, she was confirmed in the service in the year 2014 and vide an order dated 17.05.2016 she was allowed to hold the charge of AGM (HR). She was thereafter promoted to the post of Deputy Manager (HR) on 27.08.2018 giving effect from 16.03.2016. She was also given charge of the post of Deputy General Manager on 25.01.2019. He submits that as per the Regulations holding the field, there is a requirement of 5 years service in the post of Deputy

Manager (HR) to be eligible for being promoted as AGM (HR). The petitioner having completed the said period of 5 years as Deputy Manager (HR) had accordingly submitted the representation. As no action was taken, she had also submitted an application dated 30.09.2021 under the RTI Act. On 03.11.2021, the petitioner was informed that the matter was placed before the Board. Thereafter, vide the impugned communication, the Resolution of the Board dated 16.02.2022 was communicated whereby the petitioner was directed to undergo course in HR to regularize her initial appointment. The learned counsel for the petitioner has submitted that the petitioner had fulfilled the eligibility criteria as well as the qualification stipulated in the advertisement dated 15.05.2016. He has submitted that while the requirement was MBA or PGDM (HR), the petitioner had both the Degree and Diploma and her PGDM was in HR.

6. The learned counsel for the petitioner has also submitted that while her claim to be given promotion to the post of AGM (HR) was legitimate, the Board vide the impugned communication had gone to an aspect which was not even the subject matter. It is submitted that the Board could not have gone back to the initial appointment of the petitioner which was made in the year 2012 with regard to certain qualification regarding HR.

7. The learned counsel for the petitioner has also drawn the attention of this Court to certain response obtained under the RTI Act dated 06.11.2021. By referring to the same, he has submitted that in the list of officers in the HR Department of the APDCL, there are 9 officers above the petitioner and out of those 9 officers, 8 officers are Bachelor of Engineering Degree holders without any Degree or Diploma in HR. He has submitted that when such officers are

posted in the HR Department, the stand taken *qua* petitioner is absolutely unreasonable and arbitrary. He has also drawn the attention of this Court to Clause (B) of the Assam Power Distribution Company Limited Human Resource Service Rules, 2019, as per which, two third of the vacancies of the post of AGM (HR) are to be filled up from Deputy Manager (HR) completing 5 years of continuous service and one third are to be filled up by direct recruitment. It is submitted that irrespective of such prescription, incumbents holding Bachelor of Engineering Degree without any HR Degree or Diploma are also appointed in the HR Department and are working, as demonstrated from the response obtained under the RTI Act. He has also informed this Court that the *cadre* strength in the post of AGM (HR) is 6 and 5 vacancies still exist. He has also informed this Court that there was an interim direction for reconsideration of the case of the petitioner which however was again rejected by the Board in its meeting held on 23.02.2026.

8. *Per contra*, Shri K.P. Pathak, learned Standing Counsel, APDCL, has submitted that the initial entry of the petitioner in service was irregular. He has drawn the attention of this Court to the advertisement pursuant to which the petitioner was appointed as Assistant Manager. He submits that the advertisement is of the year 2011 before the Rules of the Company had come into force. As per Sl. No.3 of the advertisement concerning eligibility, the learned Standing Counsel has submitted that there is a requirement of MBA/PGDM (Human Resource). He has clarified that the MBA has to be in Human Resource and the PGDM of the petitioner, though is in Human Resource, is for one year. He has also highlighted that in the Sl. No.6 regarding qualification, two years of such course with specialization in Human Resource has been specified. He has submitted that the Board, vide its impugned resolution dated 01.06.2022 has

neither rejected the representation of the petitioner outright nor cancelled her initial appointment and has only directed her to undergo the course in the Human Resource which was a requirement in the advertisement of the year 2011. As regards the direction of this Court to reconsider the case of the petitioner, the learned Standing Counsel has submitted that such reconsideration was made in a meeting held on 02.02.2026 and at Sl. No. 57 of the Resolution, such reconsideration has resulted in the same decision directing the petitioner to undergo course in HR. The learned Standing Counsel has submitted that the aforesaid decision may not be held to be unreasonable and therefore the writ petition is liable to be dismissed.

9. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

10. It is not in dispute that the petitioner had participated in the recruitment drive for the post of Assistant Manager (HR) pursuant to the advertisement dated 15.05.2011. A look at the advertisement would reveal that the eligibility was stated to be MBA/PGDM (Human Resource). Under Sl. No.6, there is a qualification which mentions about two years full-time PG course with specialization of Human Resource. It is also stipulated that a degree in law will be considered as an additional qualification. It is not in dispute that the petitioner was an MBA and her PGDM was in Human Resource, which however was for one year. The petitioner also has the additional qualification of LLB, which the advertisement itself stipulates to be an additional qualification. The petitioner has also completed the minimum length of years in the post of Deputy Manager, which is 5 years to be considered for promotion to the next higher post of Assistant General Manager (HR).

11. In the opinion of this Court, the consideration of the case of the petitioner by going back to the aspect of her initial appointment of not having an HR Degree or Diploma of two years would not be reasonable for more than one count. The initial appointment of the petitioner was never questioned by the authorities and rather they had consciously appointed her and also subsequently given her promotion. It is also not the case that the petitioner is otherwise not qualified. The petitioner admittedly is an MBA having a PGDM in HR, which however is for one year. The petitioner, as mentioned above, also has the additional qualification of LLB, which the advertisement itself stipulates to be an additional qualification. The petitioner has also completed the minimum length of 5 years in the feeder post.

12. The other aspect is that there are a number of officers in the HR Department, who are Engineering graduates (BE). The petitioner has demonstrated all these facts by referring to the response dated 06.01.2021 obtained by invoking the RTI Act and these facts are not disputed. It clearly appears from the response that in the list of officers, against question No.5, except one, all 8 officers above the petitioner are BE and are serving in the HR Department. This Court also finds force in the argument advanced by the learned counsel for the petitioner, as per which two-thirds of the posts of AGM (HR) are to be filled up from the post of DM (HR) and one-third by direct recruitment. It is clear that the officers manning the HR Department are not necessarily required to be having a Degree / Diploma in HR, as one-third of such officers are direct recruits and it appears that engineering graduates not having HR Degree / Diploma are manning the HR Department. On the other hand, the petitioner possesses Diploma in HR, *albeit* for one year and has been serving the organization for more than 14 years and also promoted in the

meantime. This Court has also taken note of the position that 5 posts of AGM (HR) are still vacant in the *cadre* strength, which is 6. This Court is unable to agree with the findings arrived at by the Board in holding the petitioner to be ineligible for being promoted to the aforesaid higher post. The reconsideration exercise done by the Board on 02.02.2026, which has also been placed before this Court, appears to be unreasonable and arbitrary and would also not be in the interest of public service.

13. In view of the above discussion, the writ petition is allowed and the impugned communication dated 01.06.2022 as well as the subsequent reconsideration communication dated 02.02.2026 are set aside. The petitioner is accordingly directed to be considered and given promotion to the post of AGM (HR).

14. The aforesaid direction be undertaken and completed within a period of 45 days from today.

15. The writ petition accordingly stands allowed, in the manner, indicated above.

JUDGE

Comparing Assistant