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

Case No. : WP(C)/5202/2025

SMTI RANU DEVI
W/O - MR. RANA KUMAR SINGH, R/O- B. I. TOWER, FLAT NO. 201 A.T.
ROAD, TARA JAN NEAR SANJIVANI HOSPITAL, BBB PATH, WARD NO.12,
P.O.- TARA JAN, P.S. - JORHAT DIST - JORHAT, ASSAM PIN -785001.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI- 06, DIST- KAMRUP (M), ASSAM.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-36
DIST-KAMRUP(M)
ASSAM

5:THE PRINCIPAL CUM CHIEF SUPERINTENDANT
JORHAT MEDICAL COLLEGE AND HOSPITAL
P.O.- JORHAT

DIST- JORHAT
ASSAM
PIN-785001.

6:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIX MILE
GUWAHATI-22
DIST- KAMRUP(M)
ASSAM.

7:THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06
DIST-KAMRUP(M)
ASSA

Advocate for the Petitioner : MR. D BORAH, MR. R DOWARAH

Advocate for the Respondent : GA, ASSAM, SC, FINANCE,SC, HEALTH

- B E F O R E -

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

Advocate for the petitioner : Mr. D. Borah
Advocate

Advocate for the respondents : Mr. M. Bhuyan, SC
Mr. A. Chaliha, SC
Ms. M. Kalita, GA

Date on which judgment is reserved : 10.03.2026

Date of pronouncement of judgment : 08.06.2026

Whether the pronouncement is of the
operative part of the judgment? : No.

Whether the full judgment has been pronounced? : Yes

JUDGMENT AND ORDER (CAV)

08.06.2026

Heard Mr. D. Borah learned counsel for the petitioner. Also heard Mr. M. Bhuyan, learned Standing Counsel for Health; Mr. A. Chaliha, learned Standing Counsel for Finance; Ms. M. Kalita, learned Government Advocate for the respondents.

2. The writ petitioner participated in the selection process for appointment to the post of Staff Nurse, pursuant to the advertisement dated 01.12.2010 issued by the Director of Health Services, Assam, namely Respondent No. 4, herein, for filling up 276 posts, including those reserved for candidates belonging to reserved categories. The petitioner, having satisfied the eligibility criteria, applied for the selection process and appeared for the oral interview. According to the petitioner, her performance was very good and she was anxiously waiting to be conferred the appointment order. However, the petitioner's name did not appear in the select list published by the Respondent Authorities. Being aggrieved, she approached the High Court along with two other candidates by

filing WPC No. 3399/2011.

3. During the pendency of the writ petition, the Department had issued appointment orders to the present writ petitioner, as there are posts available and the petitioners can well be accommodated against those posts at Jorhat Medical College & Hospital, Jorhat. During the pendency of the said writ petition, by order dated 27th of January 2016, the writ petitioner and another were appointed in the Jorhat Medical College & Hospital, Jorhat. Thereafter, the petitioner submitted her joining report on 01.02.2016. Under such circumstances, the earlier writ petition being WP(C) No. 3399/2011 filed by the writ petitioner was closed by order dated 08.06.2017 on the basis of the submissions made by the learned counsel appearing for the Department.

4. The grievance of the petitioner before the Court although recorded to the effect that out of the 276 candidates, whose names were reflected in the select list, two candidates in the same recruitment process were omitted and subsequently appointed on 27.01.2016, as a result, the petitioner claimed that they would lose their seniority in respect of those candidates who were beneficiaries of their appointment. Accordingly, the writ petition stood closed directing the Director Health Service to examine the grievances and take a

decision on the merits of the claim for restoration of their seniority.

5. In terms of the order dated 08.06.2017 passed by this Court; the petitioners ventilated their grievances before the Director of Health Services by detailed representation dated 11.09.2023. As the representation stood pending, the petitioner also filed an application under RTI dated 04.10.2023. In response to the RTI, the information was accordingly supplied in respect of the seniority list of the different health institutions in the State of Assam. Thereafter, the seniority list of the staff nurses of different health institutions was published by the Directorate. The petitioner upon examining the seniority list found that her name was listed with the joining date of 01.02.2016, whereas according to her, her actual date of joining was required to be counted from the year 2011. This grievance was ventilated before the Directorate, requesting for ante-dating her date of joining and giving her the respective seniority.

6. Thereafter, a meeting was held with the Additional Director of Health Services, chairing the committee with other members and in the minutes of the meeting held on 07.12.2023, the committee decided that a comprehensive status report of the petitioner along with the judgment and order of the Court would be proposed to the Government for their views and approval in the

matter for the claim of seniority. Thereafter, several other representations have also been filed by the petitioner requesting for claims of seniority. Finally, the Joint Secretary, Government of Assam, Health and Family Welfare Department, by order dated 13.08.2025, conveyed the decision that the seniority of the petitioner who is a staff nurse of Jorhat Medical College & Hospital may be allowed from her actual date of joining as on 01.02.2016.

7. The learned counsel for the petitioner submits that this is contrary to the provisions of law and the order passed by the Coordinate Bench in the earlier proceedings, whereby the writ petition stood disposed of. The petitioner submits that in view of the appointments given to the petitioner during the pendency of the earlier writ petition by order dated 08.06.2017, the writ petition stood closed, permitting the petitioner to file detailed representation seeking her seniority from the date on which the other batch mates were appointed and thereafter the Government will consider the merit of a claim and pass appropriate orders. Therefore, the petitioner submits that this is not being done; the petitioner is required to come to the Court again seeking her claim of seniority. By order dated 08.09.2025, notice was issued in the matter and thereafter the matter was listed on several dates. However, no affidavit has been filed before this Court in spite of opportunities being granted by the

respondents.

8. Although affidavit was not filed, some instructions received by the Department Counsel were placed before this Court. As per the said instructions, the Director of Health Services communicated to the Standing Counsel that the seniority of the writ petitioner was considered with effect from the date of her joining, i.e. 01.02.2016 and not with effect from the year 2011, as claimed by the petitioner, and all subsequent promotions, whenever due, shall be considered by taking into account of her seniority with effect from 01.02.2016.

9. The learned counsel for the parties has been heard. Pleadings available on record have been carefully perused.

10. The writ petitioner had earlier approached this Court by filing WP(C) No. 3399 of 2011, seeking a direction from the Court for her appointment orders as her name although appeared in the select list, no order of appointment was issued.

11. By order dated 01.07.2011, notice was issued, and initially three posts were kept vacant. Subsequently, when the matter was taken up before the Court on subsequent date, it was submitted on behalf of the Health Department

that in view of the posts being available, there will not be a bar for the respondents to consider the case of the petitioners, and such liberty was granted by the Court vide order dated 28.09.2011. Thereafter, the petitioners came to be appointed on 27.01.2016. And by order dated 08.06.2017, the writ petition was closed, permitting the petitioner to raise her claim for seniority before the Directorate, by filing appropriate representation, and the Directorate was also directed to pass appropriate orders on the merits of the claim of the petitioners, and the writ petition was accordingly closed. A perusal of the order dated 08.06.2017 appears to the Court that the order dated 08.06.2017 was a consent order on the basis of which the writ petition was closed. The submission of the learned State Counsel / Department counsel that a representation in respect of the claim of the petitioner may be filed, was accepted by the counsel for the petitioner, and under such circumstances, the writ petition came to be closed. There was no finding recorded by the Court regarding her claims of seniority with effect from the year 2011.

12. The claim of the petitioner before this Court is her seniority from the date of publication of the selection list, which is 24.06.2011. The claim of the petitioner is that her name should be upgraded and her date of joining should be reflected as 2011, and thereby giving her seniority with effect from the year

2011. Such claim of the petitioner on the facts given before this Court does not appear to be maintainable to the Court. The petitioner had appeared in the selection process and the select list was published on 24.06.2011, reflecting the names of all the 270 candidates, excluding the petitioner and another. The petitioner being aggrieved had approached this Court challenging the appointment of some private respondents. At the time of issuing notice this Court directed the equivalent posts to that number of petitioners be kept vacant. During the subsequent hearings, liberty was sought for by the Department to issue appointment orders to the petitioner during the pendency of the writ petition. The permissions being granted, the appointment orders in respect of the petitioner were issued on 27.01.2016 and thereafter the petitioner joined in her services on 01.02.2016.

13. In the facts pleaded before this Court in the present proceedings, there is no date specified as to when the selected candidates were appointed. The petitioner by the earlier writ petition had assailed the appointment orders of some of the selected candidates. However as is reflected in the order dated 08.06.2017, the writ petition was closed on the acceptance by the learned counsel for the petitioner, the submissions of the Departmental counsel that the petitioner be permitted to file representations and whereupon the Department

will examine and pass appropriate orders on merit. The appointments of the private respondents were not interfered with. There was no finding on facts by the Coordinate Bench that the writ petitioner's appointment was required to have been given with effect from the date on which the other selected candidates were appointed for reasons best known to the petitioner. The writ petition was closed and the petitioner proceeded to file representations before the authorities and which finally came to be rejected by the impugned communication dated 13.08.2025, which is presently being assailed in the present writ petition.

14. The grievance before this Court in the present proceeding is that the petitioner's seniority is required to be antedated to the year 2011. There is no dispute that the petitioner offered appointment on 27.01.2016 and she accepted the appointment order and join in her services on 01.02.2016. Therefore, the entry of the petitioner in the cadre of staff nurse in the Jorhat Medical College & Hospital was with effect from the date of her joining, which is 01.02.2016 and therefore her seniority in the said post can only be given effect from 01.02.2016. The appointment order issued to the petitioner on 27.01.2016 is not under challenge in the present proceedings. The appointment of the private respondents who were arrayed as parties in WP(C) No. 3399/2011 were also not

interfered with and no consequential order was issued by the Court directing the respondents to appoint the petitioner in place of any of the selected candidates who are appointed prior to the petitioner. Therefore, the appointment order of the petitioner not being under challenge and having been accepted by the petitioner by joining in the services with effect from 01.02.2016 makes it very clear that the petitioner was born into the cadre only with effect from 01.02.2016. The liberty given by the Coordinate Bench by order dated 08.06.2017 to ventilate her grievances by way of a representation was in view of the consent order that was passed closing the writ petition in the presence of the learned counsel representing the petitioner. No finding was recorded by the Court that the petitioner had legitimate claim to be appointed with effect from the date in which the other similarly situated candidates were appointed.

15. This *Lis* between the parties has attained finality and accepted by the petitioner. No review or appeal was filed by the petitioner questioning the closure of the writ petition without rendering a finding as to whether the petitioner's claim for being appointed with effect from the year 2011, when the other selected candidates were appointed was a claim required to be granted to the petitioner. Under such circumstances, it is not open to the writ petitioner to reopen a settled matter agitated before the Court earlier in respect of her

appointment with effect from 27.01.2016 which she had voluntarily accepted and subsequently joined in her posting with effect from 01.02.2016.

16. In this context, the judgment of the Apex Court rendered in "*K. Meghachandra Singh and others vs. Ningam Siro and others*" reported in **(2020) 5 SCC 689** is required to be referred to. In this judgment, the Apex Court held that under service jurisprudence, seniority cannot be claimed from a date when the incumbent was yet to be born into the cadre. Reference may also be made to the judgment and order of the Apex Court rendered in "*S. Renuka and others vs. State of A.P. and another*" reported in **(2002) 5 SCC 195**, wherein it was held that it is a settled principle of service jurisprudence that mere inclusion of the name in the select list will not give any right of appointment to the writ petitioners.

17. Under such circumstances, the Court is of the view that there is no merit in the writ petition. The claims made by the writ petitioners cannot be accepted.

18. Accordingly, the writ petition stands dismissed.

19. No order as to cost.

20. Interim order(s), if any, stands vacated.

21. Pending I.As, if any, are also dismissed.

JUDGE

Comparing Assistant