



GAHC010018702021

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

Case No. : WP(C)/630/2021

JAGAT DEKA

S/O LT. HARICHARAN DEKA, R/O VILL. BELSOR P.O. BELSOR, P.S BELSOR
CHUPA PATOWARY PARA, DIST. NALBARI, PIN-781304

VERSUS

THE STATE OF ASSAM AND 16 ORS.
REP. BY THE PRINCIPAL SEC. TO THE GOVT. OF ASSAM, ENVIRONMENT
AND FOREST DEPTT. DISPUR-781006

2:THE SECRETARY
TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT. DISPUR GUWAHATI-6

3:THE POLLUTION CONTROL BOARD
REP. BY ITS CHAIRMAN BAMUNIMAIDAM
GUWAHATI-781021

4:THE CHAIRMAN
POLLUTION CONTROL BOARD
BAMUNIMAIDAM
GUWAHATI-781021

5:THE MEMBER SECRETARY
POLLUTION CONTROL BOARD
BAMUNIMAIDAM
GUWAHATI-781021

6:THE ASSISTANT PUBLIC INFORMATION OFFICER AND EXECUTIVE
ENGINEER
POLLUTION CONTROL BOARD
HEAD OFFICE BAMUNIMAIDAM



GUWAHATI-781021

7:DHIREN SHARMA
ASSISTANT EXECUTIVE ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD ASSAM
RATNAWALI HEIGHT
1ST FLOOR
OPP. BIRJHORA H.S. SCHOOL
BONGAIGAON
PIN-783380
DIST. BONGAIGAON
ASSAM

8:JAYANTA KULADHIPAT NATH
ASSISTANT EXECUTIVE ENGINEER
REGIONAL OFFICE
POLLUTION CONTROL BOARD ASSAM
COLLEGE TINIALI
NEAR CIRCUIT HOUSE PIN-785621
DIST. GOLAGHAT
ASSAM

9:BENUDHAR TALUKDAR
ASSISTANT EXECUTIVE ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD ASSAM
RATNAWALI HEIGHT
1ST FLOOR
OPP. BIRJHORA H.S. SCHOOL
BONGAIGAON
PIN-783380
DIST. BONGAIGAON
ASSAM

10:PATHAK CHANDRA BORO
ASSISTANT EXECUTIVE ENGINEER
REGIONAL OFFICE GUWAHATI 1 POLLUTION CONTROL BOARD
ASSAM
BAMUNIMAIDAM NEAR GOVT. PRESS
GUWAHATI
PIN-781021
DIST. KAMRUP M ASSAM

11:ARABINDA DAS
ASSISTANT EXECUTIVE ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD ASSAM



PARK ROAD
SILCHAR DEVELOPMENT AUTHORITY BUILDING SILCHAR
PIN-788002
DIST. CACHAR

12:DIPRAJ ARDAO
ASSISTANT EXECUTIVE ENGINEER
POLLUTION CONTROL BOARD ASSAM
HEAD OFFICE BAMUNIMAIDAM GUWAHATI-781021 DIST. KAMRUP M
ASSAM

13:BIJOY BARLA
ASSISTANT EXECUTIVE ENGINEER
POLLUTION CONTROL BOARD ASSAM
BY LANE NO. 2 NABAPUR
MAZGAON
TEZPUR SONITPUR PIN-784001 DIST. SONITPUR
ASSAM

14:GAUTAM NANDI
ASSISTANT EXECUTIVE ENGINEER
POLLUTION CONTROL BOARD ASSAM
HEAD OFFICE BAMUNIMAIDAM GUWAHATI-781021 DIST. KAMRUP M
ASSAM

15:JAYANTA KUMAR DUTTA
ASSISTANT EXECUTIVE ENGINEER
REGIONAL OFFICE
POLLUTION CONTROL BOARD ASSAM
BAIRAGIMATH DIBRUGARH
PIN-786001 DIST. DIBRUGARH
ASSAM

16:UJJAL KUMAR SARMA
ASSISTANT EXECUTIVE ENGINEER
POLLUTION CONTROL BOARD ASSAM
HEAD OFFICE BAMUNIMAIDAM GUWAHATI-781021 DIST. KAMRUP M
ASSAM

17:NAGEN CHANDRA BORO
ASSISTANT EXECUTIVE ENGINEER
HEAD OFFICE BAMUNIMAIDAM GUWAHATI-781021 DIST. KAMRUP M
ASSA

Advocate for the Petitioner : MR. U K NAIR
: MR. R. SINGHA



Advocate for the Respondent : MR. D. GOGOI
: MR. S. BARUAH
: MR. S.K. DAS

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Date : 15-12-2022

Heard Mr. U. K. Nair, the learned Senior counsel assisted by Mr. R. Singha, the learned counsel appearing on behalf of the petitioner and Mr. D. Gogoi, the learned Standing counsel appearing on behalf of the Forest Department. I have also heard Mr. S. Baruah, the learned Standing counsel appearing on behalf of the Pollution Control Board and its Officials and Mr. S. K. Das, the learned counsel appearing on behalf of the private respondents except the respondent Nos. 12 and 15.

2. It appears from the records that the respondent No.12 and 15 have been duly served and in spite of that, they have not put their appearance.

3. The instant writ petition has been filed challenging the various promotion orders whereby the respondent Nos. 7, 8, 9, 10 and 11 were promoted to the cadre of Assistant Executive Engineer by the orders dated 08.10.2020 and 09.10.2020 as well as the order dated 09.10.2020 whereby the private respondent Nos. 13 to 17 were upgraded to the cadre of Assistant Executive Engineer. At the outset, the learned Senior counsel appearing on behalf of the petitioner has submitted that he is not challenging the promotion of the respondent No.12 taking into account that the respondent No.12 belongs to the

reserved category and has the qualification of B.E.

4. For the purpose of deciding the dispute involved in the instant writ petition, it is relevant to take note of the brief facts of the instant case as would appear from a perusal of pleadings of the parties herein. In the writ petition, it has been mentioned that the petitioner is a Bachelor in Engineering (Chemical) was appointed as the Assistant Engineer in the Pollution Control Board, Assam vide the order dated 31.07.2012 and the petitioner joined on 01.08.2012.

5. From the records, it is apparent that in the Minutes of the meeting of the Pollution Control Board, Assam i.e. the 75th Board Meeting held on 19.06.2001, a resolution was adopted in respect to Item No.8. It is seen from the said Minutes that as per the Central Pollution Control Board, no Diploma Engineer should be recruited and the existing Diploma Engineers should be upgraded from the post of Junior Engineer to the post of Assistant Engineer aiming at increasing efficiency of the engineering service of the Board in future. The Board agreed to the said policy of the Central Pollution Control Board in principle but taking into account the then existing financial position of the Board, it was resolved to upgrade those posts of Junior Engineers which conform eligibility of norms phase wise. It was also decided that the Board would not fill the existing vacant post of the Assistant Engineers till it decided by the Board otherwise and the Member Secretary of the Board was directed to submit service sheets of the upgraded engineers person wise specifically mentioning the period of qualifying service, scale of pay, basic pay, departmental proceedings, if any, of the junior engineers for final approval of the Board.

6. On the basis of the said minutes of the meeting dated 19.06.2001, the Member Secretary of the Pollution Control Board sought approval from the

Government of Assam, Environment and Forest Department seeking upgradation of the posts with the incumbents to the post of Assistant Engineers vide a communication. Pursuant thereto, the Chairman of Pollution Control Board vide an Office Order dated 30.12.2005 in exercise of powers under Rule 22(iii) of the Water (Prevention and Control of Pollution)(Assam) Rules, 1977 upgraded the services of 14 Junior Engineers working in the Board having more than 10 years of experience to the post of Assistant Engineer with immediate effect. The private respondents herein except the respondent No.12 were amongst the various persons whose posts were upgraded in terms with the Office Order dated 30.12.2005. It further appears that on 05.12.2009, the Member Secretary of the Pollution Control Board, Assam vide an Office Order had also fixed the pay of the persons who were upgraded in pursuance to the order dated 30.12.2005.

7. Subsequent thereto, the Pollution Control Board, Assam (Employees' Service) Regulation, 2012 was made in exercise of the powers under Sub-Section 3(A) of Section 12 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Sub-Section (4) of Section 14 of the Air (Prevention and Control of Pollution) Act, 1981. The said regulations for the sake of convenience is hereinafter referred to as "The Regulations of 2012".

8. From a perusal of the said Regulations of 2012, it transpires that Regulation 3 pertains to classification and gradation of services. While Clause (i) of Regulation 3 stipulates that for the purpose of the Regulations of 2012, the services under the Board are classified, on the basis of Assam Services (Revision of Pay) Rules, 2010 and in terms with Clause (ii) of Regulation 3, it has been mentioned that for the purpose of travelling allowances and the daily allowances

the employees of the Board are classified into various grades on the basis of the basic pay drawn as shown in the Assam Services (Revision of Pay) Rules, 2010.

9. Regulation 4 stipulates the Cadre. Regulation 4 is pertinent for the purpose of deciding the instant dispute for which the same is quoted herein below.

“4. Cadre:

*(i) The services of the Board shall comprise the categories of the posts as mentioned in **Table-1**. The Board may include any other category of post or posts under the service of the Board or exclude from the post listed in **Table-1** as and when felt necessary for smooth functioning of the Board and in the public interest temporarily for a period of not exceeding two years by Board decision and on permanent basis with due approval from the Government of Assam.*

(ii) Members of the cadre shall have no claim for appointment to any other cadre except in accordance with provisions made in these Regulations.

(iii) The Board by a Resolution may upgrade or downgrade post(s) within the sanctioned strength, however, any addition to the existing strength of the cadre shall be with the approval of the Government of Assam.”

From the above quoted provision, it would be seen that Clause (i) of Regulation 4 stipulates that the services of the Board shall comprise the categories of the posts as mentioned in Table-1. Discretion has been given to the Board to include any other category of post or posts under the service of the Board or exclude from the post listed in Table-1 as and when felt necessary for smooth functioning of the Board and in the public interest temporarily for a

period of not exceeding two years by Board decision and on permanent basis with due approval from the Government of Assam. Clause (iii) of Regulation 4 as quoted hereinabove confers a discretion upon the Board by a Resolution to upgrade or downgrade post(s) within the sanctioned strength, however, any addition to the existing strength of the cadre shall be with the approval of the Government of Assam.

10. At this stage, if this Court takes a look at the Table No.1, which is in a tabular form, it shows that the cadre strength of the post (approved) and to be revised by the Regulation under various cadres at the Head Office and at the Regional Office of the Pollution Control Board of Assam. Pertinent herein to mention that in the said Table, there is no post of Junior Engineers. The post of the Assistant Engineer is reflected in Serial No.6 and as per the said Table, the total number of approved posts was 40. Similarly, in Serial No.5, the post of Assistant Executive Engineer has been mentioned and the total approved posts are 8. However, it is also reflected that there was a revision made to the cadre strength w.e.f. 2013-14 whereby there was an increase in the post of the Assistant Executive Engineer from 8 to 18 whereas there was decrease in the posts of the Assistant Engineer from 40 to 30. This seems to have been done in pursuance to the power conferred upon the Board under Regulation 4(iii) of the Regulations of 2012.

11. Regulation 7 stipulates the method of recruitment. In terms with Clause (i) of Regulation 7, the Appointing Authority can resort to any one of the methods stipulated therein i.e. either by way of direct recruitment or by promotion or on deputation or on compassionate ground or on contract basis. Clause (iii) of Regulation 7 stipulates how direct recruitment is to be carried out. Clause (iv) of

Regulation 7 is also pertinent for the purpose of the instant lis which is reproduced herein below.

“(iv) The number of vacancies under various cadres and their percentage for direct recruitment and for promotion from next cadre shall be decided by the Board authority. However, for ready reference such provisions are incorporated in the column 5 of the Table 1 in Appendix-I. Similarly, the promotion avenues from lower to higher post under various cadres are shown in the columns 5 & 6 under Table 2 to Table 7 in Appendix-II to VII.”

The above quoted Clause (iv) would show that the number of vacancies under various cadres and their percentage for direct recruitment and for promotion from next cadre shall be decided by the Board. However, for ready reference such provisions are incorporated in the Column 5 of the Table No.1 in Appendix-I. It has also been mentioned that the promotional avenues from lower to higher post under various cadres are shown in the Column Nos. 5 & 6 under Table No.2 to Table No.7 in Appendix-II to VII.

12. Regulation 8 further provides the manner in which the direct recruitment is to be made. While Clause (a) of Regulation 8 deals with direct recruitment under Group A, B and Group C service. Clause (b) relates to direct recruitment under Group D service. Admittedly, in the instant case the petitioner and the private respondents fall within the Group A service.

13. Regulation 9 stipulates as to how recruitment and promotion are to be carried out. Sub-Clause (i) of Rule 9 stipulates that subject to suitability as may be decided by the Selection Committee and by the Appointing Authority as set forth in Regulation 10 and also subject to possessing such qualification and

experience as prescribed under Table No.2 to Table No.7 in Appendix-II to VII under Regulation 7(iv) appointment by direct recruitment or promotion to the categories of posts shall be made by the Appointing Authority on the basis of Select list prepared by the Selection Committee as referred to in Regulation 14. In respect to the instant dispute, Clause-A is relevant as the petitioner as well as the respondents fall within the **Engineering and Technical Service**. Clause (II) of Regulation 9 stipulates the various qualification, experience and promotion of employees under Engineering and Technical Service. The said clause being relevant is quoted herein below:

“(II) QUALIFICATION, EXPERIENCES AND PROMOTION OF EMPLOYEES UNDER ENGINEERING & TECHNICAL SERVICE:

(a) *For recruitment to the cadre of “Assistant Engineer” in the Board the required qualification would be the Bachelor’s Degree in Engineering (B.E., B.Tech or B.Sc in Engineering) in Chemical, Civil, Environmental or Mechanical Engineering from any recognized Indian or Foreign University or AMIE of Institution of Engineers, India. The educational qualification and experience for the other posts under this service shall be as per Table-2 in Appendix-II.*

(b) *Promotion from the level of Asst. Engineer to AEE and then to EE shall be on time scale basis subject to availability of post and suitability of the persons(s) as considered by the Selection Committee.*

(c) *Promotion from the level of EE to SEE and above that is ACEE & CEE shall be by selection considering merit and seniority against the vacant post(s).*

(d) There shall be common cadre list of Engineers of the Board recruited as Asst. Engineer either by Direct Recruitment or by promotion from the Junior Engineer level before the commencement of these rules.

(e) For promotion to ACEE and CEE minimum period of 2 years as field experience as Head of Regional Office at the level of EE or SEE shall be required."

From the above quoted provision, it would show that in terms with Sub-Clause (a) of Clause II of Regulation 9 for recruitment to the cadre of "Assistant Engineer" in the Board the required qualification is Bachelor's Degree in Engineering (B.E., B.Tech or B.Sc in Engineering) in Chemical, Civil, Environmental or Mechanical Engineering from any recognized Indian or Foreign University or AMIE of Institution of Engineers, India. The educational qualification and experience for the other posts have been mentioned in Table No.2 in Appendix-II.

In terms with Sub-Clause (b), promotion from the level of Assistant Engineer to Assistant Executive Engineer and then to Executive Engineer shall be on time scale basis subject to availability of post and suitability of the persons(s) as considered by the Selection Committee.

In terms with Clause (d), there shall be common cadre list of Engineers of the Board recruited as Assistant Engineer either by Direct Recruitment or by promotion from the Junior Engineer level before the commencement of the Regulation of 2012. This particular Clause has relevance for the purpose of the instant dispute taking into account that the private respondents herein except respondent No.12 were initially appointed as Junior Engineers.

14. In the backdrop of the said Regulation 9 (II), this Court also finds it relevant to refer to the Table No.2 of Appendix-II. As the entire dispute revolves around Regulation 7, 9 and the interpretation of the Table No.2, the said Table No.2 is reproduced hereinbelow:

**“TABLE-2 : STATEMENT SHOWING CADRE WISE SERVICE CRITERIA
FOR INITIAL RECRUITMENT AND PROMOTION**

[REFERENCE : CHAPTER 3 OF THIS REGULATION]

Sl. No.	Service Cadres and Designation of the post	Educational Qualification	Scale of Pay as per R.O.P 2010	Promotional Avenues		Percentage of Post for Recruitment/ Promotion	Minimum year of Experience	Remarks
				From The Post of:	To The Post of:			
1	2	3	4	5	6	7	8	9
A. ENGINEERING AND TECHNICAL SERVICE								
1.	Chief Environmental Engineer (CEE)	B.E., B.Tech/AMIE in Chemical/Civil/Environmental Engg	Rs. 12,000-40,000+7600 grade pay	ACEE	CEE	By Promotion	25 years of service in the board or 3 years as ACEE for promotion	Masters and Research degree holders may be preferred and a minimum 2 years experience as Regional Head of office shall be essential
2	Additional Chief Environmental Engineer (ACEE)	-DO-	Rs. 12,000-40,000+7400 grade pay	SEE	ACEE	100% Promotion	22 years of service in the board or 2 years as SEE	-DO-
3	Senior Environmental Engineer (SEE)	-DO-	Rs. 12,000-40,000+6600 grade pay	EE	SEE	100% Promotion	7 years of service as EE in the Board	Only Degree/AMIE holders shall be promoted
4	Executive Engineer (EE)	-DO-	Rs. 12,000-40,000+6300 grade pay	AEE	EE	100% Promotion	5 years of Service as AEE in the Board	For existing promotee engineers the qualification shall be relaxed to diploma in engineering
5	Asst. Executive Engineer (AEE)	-DO-	Rs. 12,000-40,000+5900 grade pay	AE	AEE	100% Promotion	5 years of service as AE in the Board	-DO-
6	Asst. Engineer (AE)	-DO-	Rs. 12,000-40,000+5400 grade pay	Direct Recruitment of Degree holders			-----	AE shall be the entry point for the Eng. & Tec. Service with qualification at column 3

Note : For the existing Engineers of the Board with degree or AMIE in Mechanical Engg. the qualification will not be a bar for promotion."

15. The dispute in the instant case being primarily as regards the promotion and upgradation of the private respondents except the respondent No.12 to the post of Assistant Executive Engineer. It is therefore pertinent to take note of that the educational qualification in column No.3 of Serial No.5 i.e. for Assistant Executive Engineer (AEE) is B.E, B.Tech/AMIE in Chemical/Civil/Environmental Engineering and the entire recruitment to the said cadre has to be on the basis of 100% promotion. The minimum years of service is 5 (five) years of service as an Assistant Engineer in the Board. There is a remarks column which stipulates that "For existing promotee engineers, the qualification shall be relaxed to diploma in engineering" meaning thereby in cases where the incumbent has been promoted, the incumbent need not be B.E, B.Tech/AMIE but it would suffice, if he/she has Diploma in Engineering. In contradistinction to the post of Assistant Executive Engineer, the post of Assistant Engineer although has the same educational qualification like the Assistant Executive Engineer but the recruitment to the post of Assistant Engineer would be direct recruitment of degree holders meaning thereby there has to be compliance with Regulation 8(i) (a) and the minimum educational qualification is degree holders. In the remarks column, it has been mentioned that the Assistant Engineer shall be the entry point for the **Engineering & Technical Service** with qualification at column No.3 meaning thereby that the relaxation which is provided to the post of Assistant Executive Engineer and available only for promotee engineers having Diploma in Engineering, the same would however not apply in the case of the Assistant Engineer inasmuch as they have to possess the qualification B.E,

B.Tech/AMIE in Chemical/Civil/Environmental Engineering.

16. Now, in the backdrop of the above provisions referred in the Regulations of 2012, let this Court further take up the facts involved in the instant case. The private respondents except respondent No.12 as already stated hereinabove, were initially appointed as Junior Engineers and their qualification were Diploma in Engineering. On the basis of the Office Order dated 30.12.2005, the said private respondents except respondent No.12 were upgraded to the post of Assistant Engineer. The private respondents continued to function and in the meantime, the petitioner was appointed as an Assistant Engineer on the date as already mentioned hereinabove.

17. In the 102nd Board Meeting of the Pollution Control Board held on 09.12.2019, a decision was taken as regards the proposal of the upgradation of the following post i.e. (a) Assistant Executive Engineer to the post of Executive Engineer, (b) Assistant Executive Environment Scientist to the post of Executive Environment Scientist and (c) Assistant Engineer to the post of Assistant Executive Engineer. From a perusal of the said minutes of the meeting of the 102nd Board meeting held on 09.12.2019, it further transpires that it was decided that 13 nos. of Assistant Executive Engineer may be upgraded to Executive Engineer and 2 nos. of Assistant Executive Environment Scientist may be upgraded to Executive Environment Scientist and 5 nos. of Assistant Engineer may be upgraded to Assistant Executive Engineer keeping the Cadre Strength as 264 as revised on 2013-14. It was also mentioned that these upgraded posts will automatically come to original cadre upon retirement/termination/resignation of the above mentioned posts and the power exercised was referred to Regulation 4(iii) of the Regulations of 2012. It was

also mentioned that an intimation be sent to the State Government in that regard. Further to that, the Member Secretary had informed the Board Members that the financial involvement for upgradation of those posts would be approximately Rs. 60-70 thousands per month and this amount can be borne by the Pollution Control Board Assam from the interest accrued without having any additional burden to the State Government.

18. On the basis of the said resolution so adopted on 09.12.2019, the same was intimated to the Secretary to the Government of Assam, Environment and Forest Department who vide a communication dated 13.07.2020 permitted the Pollution Control Board Assam to take action as per Regulation 4(iii) of the Regulations of 2012. It was also mentioned that the same was done with the approval of the Personnel (A) Department and the approval of the Minister, Environment and Forest Department, Assam. Subsequent thereto, on 15.09.2020 the Selection Committee recommended the name of the respondent Nos. 7, 8, 9, 10 and 11 to be promoted to the post of Assistant Executive Engineer.

19. In another meeting of the Selection Committee held on 03.10.2020, the respondent No.12 was recommended for promotion to the post of Assistant Executive Engineer. On the basis of the said recommendations, vide an Office Order dated 08.10.2020, the respondent Nos. 7, 8, 9 and 10 were promoted to the rank of Assistant Executive Engineer and vide another Office Order dated 09.10.2020, the respondent No.11 was also promoted to the rank of Assistant Executive Engineer. On the very date, i.e. on 09.10.2020, the respondent Nos. 13, 14, 15, 16 and 17 who were holding the post of Assistant Engineer were allowed to hold the upgraded post of Assistant Executive Engineer with effect

from the date of their joining in their original place. At this juncture, it is relevant to mention that this Court made a specific query upon the Standing counsel of the Pollution Control Board as to whether there has been any other document except the Minutes of the 102nd Board Meeting dated 09.12.2019 and as to how the respondent Nos. 13, 14, 15, 16 and 17 were considered for the purpose of upgradation, the learned Standing counsel with all fairness submits that there is no other document how the respondent Nos. 13, 14, 15, 16 and 17 were considered for the purpose of upgradation to the post of Assistant Executive Engineer with effect from the date of their joining in their original place. It is also relevant that on 09.10.2020 vide another order, the respondent No.12 has also been promoted to the rank of Assistant Executive Engineer. The petitioner being aggrieved by the promotion of the respondent Nos. 7, 8, 9, 10 and 11 vide orders dated 08.10.2020 and 09.10.2020 and the upgradation of the respondent Nos. 13, 14, 15, 16 and 17 to the post of Assistant Executive Engineer has approached this Court under Article 226 of the Constitution of India.

20. The record of this case further reveals that this Court vide an order dated 08.02.2021 had issued notice making it returnable by 4 (four) weeks and further observed that the promotion and upgradation of the private respondents would be subject to the outcome of the writ petition.

21. The respondent Nos. 3, 4, 5 and 6 have filed a joint affidavit. In the said affidavit, it has been mentioned that all the Assistant Engineers who were promoted or upgraded vide the orders impugned are senior to the petitioner and they have completed almost 15 years of service as Assistant Engineer in the Board whereas the petitioner had completed only 9 years as Assistant Engineer

in the Board. It was mentioned that the qualification of these Assistant Engineers satisfy the requirement regarding qualification for promotion from Assistant Engineer to Assistant Executive Engineer as per Regulation of 2012. Further to that, it was mentioned that one of the synonyms of upgradation is promotion and as such the words "existing promotee engineers" in Table No.2, Appendix-II shall cover the existing upgraded engineers too.

22. Apart from the above, an additional affidavit was also filed by the respondent Nos. 3, 4, 5 and 6 on 11.11.2022. The said affidavit was filed pursuant to a direction passed by this Court on 13.09.2022 directing the respondent Board to place the records with the regard to the Office Order bearing No.WB/E-1/Pt-X/2004-2005/129 dated 30.12.2005 whereby 14 nos. of Junior Engineers were upgraded to the cadre of Assistant Engineer in the Pollution Control Board. The respondent Nos. 3, 4, 5 and 6 by way of the said affidavit has stated that the upgradation order dated 30.12.2005 was done in pursuance to the Resolution adopted by the Board in its 75th Board Meeting held on 19.06.2001 whereby a decision was arrived at not to recruit any diploma engineers and the existing diploma engineers should be upgraded from the post of Junior Engineers to the Assistant Engineers. In paragraph No.4 of the said additional affidavit, it was mentioned that the said upgradation was given effect in view of the 75th Board Meeting on 19.06.2001 by the erstwhile Chairman of the Board and there was no selection process involved in the said upgradation.

23. The private respondent Nos. 7, 8, 9 10, 11, 13, 14, 16 and 17 have also jointly filed an affidavit. In paragraph No.7 of the said affidavit, the private respondents have stated that although they were initially appointed as junior

engineers, the said post was later re-christened as Assistant Engineer. Further to that, in paragraph No.8, it was mentioned that since the nomenclature of Junior Engineer was re-christened as Assistant Engineer and accordingly the name of the respondent No.16 along with other private respondents are shown under the single cadre post of Assistant Engineer as on 01.02.2020. It was also mentioned that the promotions have been effected strictly as per the cadre list of the Assistant Engineer up to Serial No.10 and the petitioner's seniority position being 12 in the cadre list will get his due promotion as and when his turn comes. Further to that it has been mentioned that the upgradation of the post vide the order dated 09.10.2020 was in pursuance to the Minutes of the 102th Board Meeting held on 09.12.2019 with due intimation to the Government. It was also stated that in the promotional orders dated 09.10.2020, it has been written as "upgraded post of Assistant Executive Engineer" and in the next line of the same order itself it is written as "promotional benefit will accrue to them w.e.f. the date of their joining" and as such it was stated in the affidavit that the words used "upgraded" and "promoted/promotional" is the same sense and meaning as promotion.

24. In the backdrop of the above materials on record, let this Court examine the respective submissions of the learned counsels for the parties. Mr. U. K. Nair, the learned Senior counsel submitted that from a perusal of the minutes of the meeting dated 19.06.2001 of the 75th Board Meeting of the Pollution Control Board, the Office Order dated 30.12.2005 as well as the specific stand taken by the Pollution Control Board in its affidavit dated 11.12.2022 to the effect that there was no selection process involved in the said upgradation, it would appear that the 14 Junior Engineers of the Board including the private respondent Nos.

7, 8, 9, 10, 11, 13, 14, 15, 16 and 17 were upgraded to the post of Assistant Engineer. Under no circumstances, the said upgradation can be said to be a promotion thereby entitling them to the benefit of the remarks column which is only for existing promotee engineers whose qualifications shall be relaxed to Diploma in Engineering. The learned Senior counsel drawing the attention of this Court to the judgment of the Supreme Court rendered in the case of ***Rama Nand and Others Vs. the Chief Secretary, Government (NCT of Delhi) and Another reported in (2020) 9 SCC 208*** submitted that the Supreme Court had categorically discussed the principles relating to promotion and upgradation. Referring to paragraph No.11, the learned Senior counsel submitted that as in the instant case, the private respondent Nos. 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17 were granted upgradation to the post of Assistant Engineers and admittedly, there was no selection done in that regard, they are not entitled to the relaxation which is otherwise available for the promotee engineers as mentioned in the remarks column of Serial No.5 of Table No.2 in Appendix-II. He further submitted that a perusal of Regulation 4(iii) stipulates that the Board by a Resolution may upgrade or downgrade post(s) within the sanctioned strength. But in the case of respondent Nos. 13 to 17, the Board had not only upgraded the posts but had also upgraded the persons along with it which is not permissible in view of Regulation 7 which categorically mandates the manner in which a person can be recruited to a post in the cadre. He therefore submits that the promotion so made in the case of respondent Nos.7, 8, 9, 10 and 11 vide the impugned order dated 08.10.2020 and 9.10.2020 was illegal on the ground that the said respondent Nos. 7, 8, 9, 10 and 11 did not have the requisite qualification of Bachelor of Engineering/Bachelor of Technology/AMIE in Chemical/Civil/Environmental Engineering as they were merely diploma

holders in engineering. The upgradation made in favour of the respondent Nos. 13 to 17 vide the order dated 09.10.2020 were not only illegal on the basis of the fact that the said persons did not have the required qualification but also for the fact that the said was contrary to Regulation 7 which categorically mandates how the recruitment process can be made. The learned Senior counsel submits that there can be an upgradation of the post in terms with Regulation 4(iii) of the Regulation of 2012 but there cannot be an upgradation of an Officer to the rank of the Assistant Executive Engineer as the same would be in contrary to Regulation 7.

25. Mr. S. Baruah, the learned counsel appearing on behalf of the respondent Pollution Control Board submitted that the Pollution Control Board is not in possession of any records pertaining to the upgradation made in favour of the 14 Officers vide the order dated 30.12.2005 except the minutes of the meeting of the 75th Board Meeting on 19.06.2001. He submitted that taking into account that those 14 Officers who were upgraded to the rank of Assistant Engineer were stagnating and the Central Pollution Control Board's directive that there should not be any Junior Engineers, a decision was taken to upgrade the existing Diploma Engineers from the post of Junior Engineers to the post of Assistant Engineers aiming at increasing efficiency of engineering service of the Board in future. He further submitted that as per the records available with the Pollution Control Board, there was no selection conducted while upgrading those 14 Officers from the post of Junior Engineers to Assistant Engineers. The learned counsel also submitted that the respondents herein who have been promoted and/or upgraded vide the impugned orders were serving in the rank of Assistant Engineers for the last 15 years whereas the petitioner served only 9 years as on the date of filing of the affidavit and as such the promotion or

upgradation of the said respondents ought not to be interfered with by this Court. The learned counsel also submitted that the Remarks Column No.9 in Serial No.5 of Table No.2 in Appendix-II shall be applicable insofar as the respondents are concerned taking into account that by upgrading their services, they have been promoted to the post of Assistant Engineer.

26. Mr. S. K. Das, the learned counsel appearing on behalf of the private respondent Nos. 7, 8, 9, 10, 11, 13, 14, 16 and 17 has submitted that from a perusal of the 102nd Meeting of the Pollution Control Board, it would be seen that the policy decision was taken by the respondent Pollution Control Board to upgrade various posts. He further submitted that from the said Minutes of the Meeting, it would be clear that the said policy decision taken on the basis that there were less numbers of vacant promotional posts. He therefore submitted that the same being a policy decision which was given effect to by the promotional orders dated 08.10.2020, 09.10.2020 and the upgradation order dated 09.10.2020, this Court under Article 226 of the Constitution ought not to interfere unless and until there is any violation to the fundamental rights of the petitioner. He further submitted that from a perusal of the promotional orders dated 08.10.2020, 09.10.2020 as well as the upgradation order dated 09.10.2020, it would be clear that the respondent authorities have used the term promotion/upgradation interchangeably which can be seen from the perusal of the order dated 09.10.2020 whereby the respondent Nos. 13, 14, 15, 16 and 17 were upgraded to the post of Assistant Executive Engineer with effect from the date of their joining in their original place and it was also mentioned that the pay and the other promotional benefits would accrue to them with effect from their date of joining. Therefore, the learned counsel submitted that the term "promotee engineer" as appearing in Column No.9 of Serial No.5 of

Table No.2 in Appendix-II has to be also read as upgraded engineer in the facts of the instant case. He relied upon the judgment of the Supreme Court rendered in the case of ***Dilip Kumar Garg Another Vs. the State of Uttar Pradesh and Others reported in (2009) 4 SCC 753*** wherein the Supreme Court had observed that the decision to treat all Junior Engineers whether he/she is a degree holder or diploma holder, as equals for the purpose of promotion is a policy decision and the Court should not ordinarily interfere with the policy decision unless there is a clear violation of some constitutional provision or the statute.

27. Upon hearing the learned counsel for the parties as well as upon perusal of the materials on record, the questions which arises for consideration are as follows:

- (a) Whether the 14 Officers who were upgraded to the post of Assistant Engineers vide the order dated 30.12.2005 was a mere upgradation simplicitor or could be termed to be a promotion?
- (b) Whether in terms with Column No.9 of Serial No.5 of Table No.2 in Appendix-II, the term existing promotee engineers would include the respondent Nos. 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17?
- (c) Whether the promotion of the respondent Nos.7, 8, 9, 10 and 11 vide orders dated 08.10.2020 and 09.10.2020 as well as the upgradation of the respondent Nos.13, 14, 15, 16 and 17 to the rank of Assistant Executive Engineer by the order dated 09.10.2020 are required to be interfered with?

28. Let this Court first take into consideration as to whether the 14 Officers including the respondent Nos. 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17 were promoted to the post of Assistant Engineer or it was a upgradation simplicitor. The Supreme Court in the case of **Rama Nand and Others (supra)** while taking into consideration the principles laid down in the case of **Bharat Sanchar Nigam Limited Vs. R. Santhakumari Velusamy reported in (2011) 9 SCC 510** observed that there is fine distinction which arises in cases but a holistic view has be taken considering the factual matrix of each case. Paragraph Nos. 11, 13, 14, 18 and 19 being relevant are quoted hereinbelow.

“11. The learned counsel for the appellant sought to refer us to para 29 which sets out the principles as under: (R. Santhakumari Velusamy case, SCC pp. 524-26)

“29. On a careful analysis of the principles relating to promotion and upgradation in the light of the aforesaid decisions, the following principles emerge:

(i) Promotion is an advancement in rank or grade or both and is a step towards advancement to a higher position, grade or honour and dignity. Though in the traditional sense promotion refers to advancement to a higher post, in its wider sense, promotion may include an advancement to a higher pay scale without moving to a different post. But the mere fact that both—that is, advancement to a higher position and advancement to a higher pay scale—are described by the common term “promotion”, does not mean that they are the same. The two types of promotion are distinct and have different connotations and consequences.

(ii) Upgradation merely confers a financial benefit by raising the scale of pay of the post without there being movement from a

lower position to a higher position. In an upgradation, the candidate continues to hold the same post without any change in the duties and responsibilities but merely gets a higher pay scale.

(iii) Therefore, when there is an advancement to a higher pay scale without change of post, it may be referred to as upgradation or promotion to a higher pay scale. But there is still difference between the two. Where the advancement to a higher pay scale without change of post is available to everyone who satisfies the eligibility conditions, without undergoing any process of selection, it will be upgradation. But if the advancement to a higher pay scale without change of post is as a result of some process which has elements of selection, then it will be a promotion to a higher pay scale. In other words, upgradation by application of a process of selection, as contrasted from an upgradation simpliciter can be said to be a promotion in its wider sense, that is, advancement to a higher pay scale.

(iv) Generally, upgradation relates to and applies to all positions in a category, who have completed a minimum period of service. Upgradation can also be restricted to a percentage of posts in a cadre with reference to seniority (instead of being made available to all employees in the category) and it will still be an upgradation simpliciter. But if there is a process of selection or consideration of comparative merit or suitability for granting the upgradation or benefit of advancement to a higher pay scale, it will be a promotion. A mere screening to eliminate such employees whose service records may contain adverse entries or who might have suffered punishment, may not amount to a process of selection leading to promotion and the elimination may still be a part of the process of upgradation simpliciter. Where the upgradation involves

a process of selection criteria similar to those applicable to promotion, then it will, in effect, be a promotion, though termed as upgradation.

(v) Where the process is an upgradation simpliciter, there is no need to apply the rules of reservation. But where the upgradation involves a selection process and is therefore a promotion, the rules of reservation will apply.

(vi) Where there is a restructuring of some cadres resulting in creation of additional posts and filling of those vacancies by those who satisfy the conditions of eligibility which includes a minimum period of service, will attract the rules of reservation. On the other hand, where the restructuring of posts does not involve creation of additional posts but merely results in some of the existing posts being placed in a higher grade to provide relief against stagnation, the said process does not invite reservation.”

13. *On the other hand, the learned ASG submitted that the aforesaid principle has to be read in the context of what has been set out before in paras 27 and 28 of R. Santhakumari Velusamy case². The law explaining the difference between upgradation and promotion was set out in Union of India v. Pushpa Rani³ and those principles have been extracted in para 27 of R. Santhakumari Velusamy case²; the relevant portion of para 27 reads as under: (R. Santhakumari Velusamy case², SCC p. 523)*

“27. In Union of India v. Pushpa Rani³ this Court examined the entire case law and explained the difference between upgradation and promotion thus: (SCC pp. 244h-245h)

‘In legal parlance, upgradation of a post involves transfer of a post from lower to higher grade and placement of the incumbent of that post in the higher grade. Ordinarily, such placement does not involve selection but in

some of the service rules and/or policy framed by the employer for upgradation of posts, provision has been made for denial of higher grade to an employee whose service record may contain adverse entries or who may have suffered punishment. The word "promotion" means advancement or preferment in honour, dignity, rank, grade. Promotion thus not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law, the word "promotion" has been understood in wider sense and it has been held that promotion can be either to a higher pay scale or to a higher post."

14. *The post in Pushpa Rani was held to be promotion for the reasons set out in para 28 (R. Santhakumari Velusamy case², SCC p. 524)*

"28. In Pushpa Rani³, this Court while considering a scheme contained in the Letter dated 9-10-2003 held that it provided for a restructuring exercise resulting in creation of additional posts in most of the cadres and there was a conscious decision to fill up such posts by promotion from all eligible and suitable employees and, therefore, it was a case of promotion and, consequently, the reservation rules were applicable."

18. *The reasons for coming to this conclusion are based on the principles set out in BSNL case². No doubt, sometimes there is a fine distinction which arises in such cases, but, a holistic view has to be taken considering the factual matrix of each case. The consequence of reorganisation of the cadre resulted in not only a mere re-description of the post but also a much higher pay scale being granted to the appellants based on an element of selection criteria. We say so as, at the threshold itself, there is a requirement of a minimum 5 years of service. Thus, all Telephone Operators would not automatically be eligible for the new post. Undoubtedly, the financial emoluments, as stated above, are much higher. The third important aspect is that the appellants had to go through the rigours of a specialised training. All these cannot be stated to be only an exercise of merely re-description or reorganisation of the cadre. On*

applying the test in BSNL case², as per sub-para (i) of para 29, promotion may include an advancement to a higher pay scale without moving to a different post. In the present case, there is a re-description of the post based on higher pay scale and a specialised training. It is not a case covered by sub-para (iii), as canvassed by the learned counsel for the appellants, where the higher pay scale is available to everyone who satisfies the eligibility condition without undergoing any process of selection. The training and the benchmark of 5 years of service itself involve an element of selection process. Similarly, it is not as if the requirement is only a minimum of 5 years of service by itself, so as to cover it under sub-para (iv).

19. *We have already observed that the complete factual contours of the difference between the two posts would have to be examined in the given factual situation and the triple criteria of minimum 5 years of service, a specialised training and much higher financial emoluments leaves us in no manner of doubt. What was done has to be considered as a promotion disentitling the appellants to the benefits of the ACP Scheme. As the very objective of the ACP Scheme, as set out, is "to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues".*

29. From the above quoted paragraphs, it would be seen that in the case of ***Bharat Sanchar Nigam Limited (supra)***, the Supreme Court detailed out the various principles relating to promotion and upgradation. Amongst the 6 principles, it is relevant to take note of that when there is an advancement to higher pay scale without change of post, it may be referred to as an upgradation or promotion to higher pay scale. It was observed that there is still a difference between the two inasmuch as where the advancement to a higher pay scale without change of the post is available to everyone who satisfies the eligibility conditions without undergoing any process of selection, it would be an

upgradation. However, if the advancement to higher pay scale without change of the post as a result of some process which has the elements of selection, then it would be a promotion to higher pay scale. This principle has set out in Clause (iii) of Paragraph No.29 in the judgment of the Supreme Court rendered in the case of ***Bharat Sanchar Nigam Limited (supra)*** which is directly applicable to the facts of the instant case taking into account the specific stand taken by the respondent Pollution Control Board wherein it has been stated that the upgradation given to the 14 Officers vide the Office Order dated 30.12.2005 was without carrying out any selection process. This aspect of the matter has also been admitted in the affidavit filed by the respondent Nos. 7, 8, 9, 10, 11, 13, 14, 16 and 17 more particularly in Paragraph Nos. 7 and 8 wherein they categorically mentioned that the post of the Junior Engineers were later re-christened as Assistant Engineer. Under such circumstances, this Court answers the first question for consideration to the effect that the 14 Officers including the respondent Nos. 7, 8, 9, 10, 11, 13, 14, 15, 16 and 17 were merely upgraded to the post of Assistant Engineer as there was no element of selection in the said exercise.

30. The next question arises as to whether the private respondents herein can claim the benefit in terms with the remarks mentioned in Column No.9 of Serial No.5 of Table No.2 in Appendix-II inasmuch as it has been mentioned that "for existing promotee engineers the qualification shall be relaxed to Diploma in Engineering". The learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to Regulation 9(II)(d) and submitted that there shall be a common cadre list of Engineers of the Board recruited as Assistant Engineer either by Direct Recruitment or by promotion from the Junior Engineer level before the commencement of the Regulation of 2012. He therefore

submitted that the promotee engineers as mentioned in the remarks column is in reference to those engineers who were to be promoted from Junior Engineer in terms with Regulation 9(II)(d). He further submitted that as the Regulation is clear to apply only to the promotee engineers and sans any challenge made to the said Regulation, the question of this Court reading "promotee engineers" to include "upgraded engineers" do not arise. At this stage, this Court also finds it relevant to take into consideration the submission made by the learned counsel for the private respondents that it is a policy decision taken by the Board to read the "upgraded engineers" as "promotee engineers" and as such, this Court under Article 226 of the Constitution of India should not interfere with the said policy decision. As already mentioned hereinabove, the learned counsel for the private respondents have also relied upon the decision of the Supreme Court rendered in the case of **Dilip Kumar Garg (supra)**. This Court finds it relevant to first take into account the judgment of the Supreme Court rendered in the case of **Dilip Kumar Garg (supra)**. It appears from the facts involved in the said judgment that initially the diploma as well as the degree engineers were treated differently in terms with the U.P. service of Engineers (Buildings and Roads Branch) Class (II) Rules, 1936. But, however by Rule 5(ii) of the U.P. Public Work Department Group (B) Civil Engineering Service Rules, 2004, both the Diploma Engineers and the Degree Engineers have been treated at par. It is under such circumstances, Rule 5(ii) of the said Rules of 2004 was put to challenge. It is in that regard, the Supreme Court observed that it is the Administrative Authorities who are in the best position to decide the requisite qualification for promotion from Junior Engineer to Assistant Engineer and it is not for the Court to sit over their decision like a Court of appeal. It was also observed that the Administrative Authorities have experience in administration

and the Court must respect this and should not interfere readily with administrative decisions. Further to that, it was observed that the decision to treat all Junior Engineers whether degree holders or diploma holders as equal for the purpose of promotion is a policy decision and it is well settled that the Court should not ordinarily enter in the policy decision unless there is a clear violation of some constitutional provisions or the statute. It is under such circumstances the challenge to the validity of Rule 5(ii) of the 2004 Rules was turned down. The judgment in the opinion of this Court does not apply to the facts of the instant case. First, there is no challenge to Column No.9 of Serial No.5 of Table No.2 in Appendix-II which categorically mandates that the relaxation shall be only available to the "existing promotee engineers". Secondly, in the case before the Supreme Court, there was a challenge made therein to the enactment of Rule 5(ii) of the 2004 Rules for treating the degree holders and diploma holders at par. However, in the instant case, the Authority making the Regulation of 2012 have not treated the promotee engineers with upgraded engineers at par and under such circumstances, the said judgment is not applicable. More so, if this Court accepts the contention of the private respondents, it would amount to legislating by this Court which would not be permissible. It is also relevant to mention that when the Statute or the Rules mandate a thing to be done in a particular manner, by way of a policy decision of the administrative authorities, a contrary course of action is not permissible. It would be within the authority to take appropriate steps for amendment of the Regulation of 2012 as per the permissible mode or to stick to the mandate of the Regulation of 2012.

31. This Court is therefore of the opinion that in view of Rule 9(II)(d) which categorically mandates that the promotion from the Junior Engineer level to the

cadre of Assistant Engineer, the reference to the remarks in Column No.9 of Serial No.5 of Table No.2 in Appendix-II has to be in reference to those Junior Engineers who were promoted and not of those Junior Engineers who were upgraded that too without any selection process.

32. The third question for consideration is as to whether the impugned orders dated 08.10.2020 and 09.10.2020 whereby the respondent Nos. 7, 8, 9, 10 and 11 were promoted to the post of the Assistant Executive Engineer and as to whether the impugned order dated 09.10.2020 whereby the respondent Nos. 17 to 21 were upgraded to the post of Assistant Executive Engineer was required to be interfered with. The promotion of the respondent Nos. 7, 8, 9, 10 & 11 and upgradation of the respondent Nos. 13, 14, 15, 16 and 17 could not have been made in their favour on the ground that they did not have the requisite qualification of B.E, B.Tech/AMIE in Chemical/Civil/Environmental Engineering in terms with Regulation 9(II)(a) and the remarks column as Column No.9 of Table No.2 in Appendix-II also do not provide any relaxation in favour of the said respondents. Furthermore, with respect to the respondent Nos. 13, 14, 15, 16 and 17, it is not known on what basis the respondent Pollution Control Board had upgraded the Officers vide the impugned order dated 09.10.2020 which was dehors the provisions of Regulation 7(a)(i) which mandates recruitment to the various post can be made only by way of direct recruitment or by promotion or by deputation or on compassionate ground or on by way of contract. Regulation 4(iii) only empowers the Board for the purpose of upgrading or downgrading the post(s) within the sanctioned strength. However, with the approval of the Government, there can be any addition to the existing strength to the cadre. However, the power under Regulation 4(iii) of the Regulation of 2012 does not empower the Board to upgrade or downgrade the services of an

Officer from the post of Assistant Engineer to the post of Assistant Executive Engineer as that would be in violation to Regulation 7. For the reasons above mentioned, this Court is of the opinion that the promotional orders dated 08.10.2020 and 09.10.2020 of the respondent Nos. 7, 8, 9, 10 & 11 and the upgradation of the respondent Nos. 13, 14, 15, 16 & 17 are in violation to the Regulation of 2020 as they do not have the requisite qualification for which the said orders are liable to be interfered with.

33. In view of the above findings, the instant writ petition is disposed of with the following observations and directions.

(a) The Office Order bearing Nos. WB/G-895/13-14/78, WB/G-895/13-14/78-A, WB/G-895/13-14/78-B and WB/G-895/13-14/78-C dated 08.10.2020 whereby the respondent Nos.7, 8, 9 and 10 were promoted to the cadre of Assistant Executive Engineer are set aside and quashed.

(b) The Office Order bearing No. WB/G-895/13-14/79 dated 09.10.2020 whereby the respondent No.11 was promoted to the cadre of Assistant Executive Engineer is set aside and quashed.

(c) The Office Order bearing No. WB/E-143/19-20/13 dated 09.10.2020 whereby the respondent Nos. 13, 14, 15, 16 and 17 have been upgraded to the Cadre of Assistant Executive Engineer is set aside and quashed.

(d) In view of the above directions of setting aside the orders dated 08.10.2020 and 09.10.2020 in sub-paragraphs (a), (b) & (c) hereinabove, the vacancies which have arisen on account thereof be

filled up by the State Pollution Control Board Assam by adopting the procedure in terms with Regulation 10 of the Regulation of 2012. In doing so, the Pollution Control Board is directed to only consider those Assistant Engineers who confirms to the eligibility in terms with Regulation 9(II) as well as Table No.2 of Appendix-II of the Regulation of 2012.

(e) Taking into account that this Court is not interfering with the promotion of the respondent No.12 as he is duly qualified in terms with Regulation 9(II) of the Regulation of 2012, the respondent Pollution Control Board in the eventuality of promoting such Assistant Engineers to the post of Assistant Executive Engineers shall also take due note of the seniority in the Gradation List as on 01.02.2020 and grant such notional benefits to such persons including the petitioner if entitled to as per law.

JUDGE

Comparing Assistant