

SUPREME COURT OF INDIA

Krishna Mohan Barman

Vs.

State of Assam

Crl.A.No.970 of 1999

(G.B.Pattanaik and M.B.Shah JJ.)

24.11.1999

ORDER

1. Leave granted.

2. The learned counsel for the respondent was directed to produce the record and to file the counter; but neither counter has been filled nor the record has been produced. In these circumstances, we are constrained to proceed on the basis of the material on record.

3. The appellant, while he was working a Executive Engineer, was asked by the Superintending Engineer to carry out the visual inspection of the work executed at Sonepat Drainage Division on April 30,1989. He carried on the same on May 2,1989 and submitted that report. Subsequently, a case was registered against the contractors and other employees. On the basis of subsequent report submitted by Shri O.P. Viji, an FIR was registered on August 10, 1989 against the officers connected with the job. Thereafter the entire staff comprising of 95 persons in Karnal Drainage Circle, was put under suspension in April 1990. On account thereof, the appellant was also kept under suspension for giving the report of visual inspection vis-a-vis the execution of the work. After his reinstatement, he was due for promotion but the same was not given, while his juniors were promoted. Consequently, he challenged his non-consideration for promotion by way of writ petition which has been dismissed by the High Court. Thus, this appeal by special leave.

4. We wanted to examine the record to ascertain whether there is any substantial case against the appellant. The respondents have neither filed counter nor produced the record. Under these circumstances, we are constrained to accept the case of the appellant that he is entitled to be considered for promotion under the Rules. We direct the Government to consider his case for promotion on the basis of his service record within four months from the receipt of this order. While doing so, the Government will exclude the material relating to his inspection report.

5. The appeal is accordingly allowed. No costs.