

(2004) 02 GAU CK 0068
In the Gauhati High Court
Case No : Writ Petition (C) No. 2819 of 2002

Abdul Roud

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 18-02-2004

Acts Referred:

Citation : (2005) 1 GLR 256

Hon'ble Judges : Biplab Kumar Sharma, J

Bench : Single Bench

Advocate : H.R.A. Choudhury, for the Appellant; S.C. Director of Land Records, for the Respondent

Final Decision : Dismissed

Judgement

B.K. Sharma, J.—Briefly stated, the facts leading to the filing of the instant writ petition are as follows :

2. The petitioner was approved for appointment as Amin by a communication dated 29.06.1999 issued by the competent authority in the Revenue (L.R.) Department, Government of Assam. In the said letter it was clearly stated that the petitioner shall have to obtain the requisite qualification for permanent absorption as Amin within a period of 2 years under the prevalent scheme after his appointment. Pursuant thereto, the petitioner was appointed as Amin by an order dated 14.12.1999 with the following condition :

"(1) The candidate Shri Abdul Roud shall have to acquire the requisite qualification i.e. successful completion of the Recorders certificate course class training within a period of 2 (two) years from the date of appointment under this scheme, with a direction that beyond this period no relaxation will be permitted and the person concerned shall be liable to be discharged from service."

3. While the petitioner was continuing in his service, by a communication dated 27.11.2000, the Director of Land Records, Assam directed the Settlement Officer, Karimganj to depute the petitioner for Refreshers" Training Course. The

petitioner along with other was deputed for such training course by an order dated 19.12.2000. The petitioner was released from his duties to enable him to join in the said course.

4. Some averments have been made in the writ petition relating to the difficulties which the petitioner had to face towards his joining the training course. However, in my considered opinion, they are not relevant to arrive at a decision.

5. On an earlier occasion the petitioner had approached this Court by filing a writ petition registered and numbered as W.P.(C) No. 8782/01. In the said writ petition, a grievance was made against the order of discharge by which the services of the petitioner was dispensed with on the ground that he could not qualify in the said training course. This Court on perusal of the materials on record, found that the results of the said training were not declared and held that the petitioner could not have been discharged from service even before the declaration of the results. However, while disposing the writ petition, it was observed as follows :

"However, it is made clear that the authority is competent to discharge the petitioner on the basis of the result of the examination in which he has appeared between 23.04.2001 to 27.04.2001. The petitioner may report to the respondent No. 4, i.e., the Settlement Officer, Karimganj for joining his post and the Settlement Officer, Karimganj shall do the needful."

6. Now the present writ petition has been filed making a grievance against the contemplated action of the respondents to terminate the service of the petitioner. As per the averments made in the writ petition such a contemplation was made in view of the fact that the petitioner could not qualify in the said training course the results of which were in the meantime declared.

7. I have heard Mr. Choudhury, learned counsel for the petitioner and Mr. Nayar, learned Stating counsel appearing for the Director, Land Records, Assam. Mr. Choudhury submits that the petitioner was not given enough opportunity to prepare himself for the training course. He further submits that sympathetic view is required to be taken in this matter and the petitioner should be given at least two more chances to clear the said training course.

8. Mr. Nayar, on the other hand, submits that the petitioner having failed to qualify in the said training course there is no question of allowing him to continue in his service. He further submits that the condition of clearing the training course within two years has been specified in the order of appointment. Referring to an earlier decision of this Court passed in W.P.(C) No. 8782/01 filed by the petitioner, Mr. Nayar submits that this Court while disposing the said writ petition clearly indicated that the authority would discharge the petitioner on the basis of the results of the training course. The petitioner having failed in the said training course, there is no illegality or arbitrariness in discharging the petitioner from service, he submits.

9. I have considered the submissions of the learned counsel for the parties and also perused the materials on records and the order of this Court passed in W.P. (C) No. 8782/01. The petitioner was appointed as Amin subject to clearing the recorders" training course within a period of two years. The admitted position is that the petitioner could not qualify the said training course. Thus necessarily, in terms of the order of appointment and the approval conveyed by the Government of Assam, there is no responsibility on the part of the respondents for the failure of the petitioner to qualify the said training course within the stipulated time. It is not the case of the petitioner that he was not given adequate opportunity to completed the said training course. His only grievance is that another two more chances ought to have been or should be given to him to complete the said training course.

10. Mr. Choudhury, learned counsel for the petitioner, referring to the Annexure - 10 & 11 representations dated 30.04.2001 and 26.04.2002, submits that the respondents should take a sympathetic view in the matter and allow the petitioner to continue in his service enabling him to avail another opportunity to complete the said training course towards permanent absorption in his services. Mr. Nayar, on the other hand, submits that the respondents cannot act beyond the rules and the relevant scheme in terms of which the petitioner was to complete the said training course within a period of two years which he admittedly failed to do.

11. The petitioner once continued in his service and in fact, has been continuing in his service on the basis of the interim order passed by this Court and wants to avail another chance to complete the training course. It will be within the jurisdiction of the Government of Assam in the Revenue (L.R.) Department to consider that aspect of the matter within the relevant rules and scheme. Mr. Choudhury, learned counsel for the petitioner, strenuously argued that the Government should relax the relevant rules. This Court in exercise a writ power cannot issue any direction to relax the relevant recruitment rules.

12. As observed above, it will be entirely on the Government to deal with the matter, as they deem it fit and proper. In exercise of writ power, I cannot grant any relief to the petitioner. Accordingly, the writ petition stands dismissed. However, the dismissal of the petition will not preclude the respondents to consider and dispose of the Annexure 10 & 11 representations referred above. The interim order passed stands vacated.