

(2018) 03 GAU CK 0116
In the Gauhati High Court
Case No : WP(C) 106 of 2010

ARUP KALITA

APPELLANT

Vs

THE STATE OF ASSAM AND ORS

RESPONDENT

Date of Decision : 28-03-2018

Acts Referred:

Citation : (2018) 03 GAU CK 0116

Hon'ble Judges : HRISHIKESH ROY

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Heard Mr. D.K. Das, the learned counsel appearing for the petitioner. The respondent Nos. 1 & 4 are represented by Ms. K. Dutta, the learned

Govt. Advocate. None appears for Sainen Choudhury (respondent No. 5), whose appointment to the post of Jr. Assistant (Division Level), is challenged

in this proceeding.

2. The recruitment process for the 15 vacancies of Jr. Assistant (Division Level) was initiated by the advertisement dated 8.9.2008 (Annexure-A),

issued by the Principal Chief Conservator of Forest (PCCE), Assam. The petitioner offered his candidature and he appeared in the written test held

on 8.2.2009, with the Roll No. 06615, under the call letter dated 1.1.2009 (Annexure-B). The result of written test was published in the notice dated

6.8.2009 (Annexure-C) and the petitioner was directed to appear in the next segment i.e. type writing, computer proficiency and the viva-voce test, by

issuing the call letter dated 1.1.2009 (Annexure-D). However when the select list was notified on 17.12.2009 (Annexure-F), the petitioner's roll

number was missing from the final list. Therefore, the aggrieved aspirant

challenges his exclusion and also allege unjust selection of Sailen Choudhury (respondent No.5).

3.1. The principal contention of the petitioner is that the Roll No.12008 of respondent No.5 was missing from the written test result notice dated

6.8.2009 (Annexure-C) and therefore, this candidate could not have been included in the final select list notified on 17.12.2009 (Annexure-F).

3.2. The other contention is that the final select list contains 20 roll numbers whereas only 15 posts of Jr. Assistant (Division Level) were advertised, in the advertisement dated 8.9.2008 (Annexure-A).

4.1. On the other hand, Ms. K. Dutta, the learned Govt. Advocate, supporting the selection process refers to the averments in the counter affidavit

filed on 17.8.2010, to project that the petitioner's aggregate score was 126, whereas the cut off mark for the General category candidate in the

final select list was 127 and on this basis it is argued that the petitioner's inferior performance in the recruitment test, disentitle him to be included in the final select list.

4.2. In the context of the challenge to the selection of Sailen Choudhury (respondent No.5), the Govt. Advocate submits that when the result of the

written examination was notified on 6.8.2009 (Annexure-C), the respondent No.5 made a representation, for re-examination/re-evaluation of his

answer script and accordingly, the Principal of the Cotton College was requested to re-examine the answer script of the candidate bearing Roll

No.12008. On such re-evaluation, the respondent No.5 secured 84 marks, which was above the cut off mark of 81, in the written test. Because of the

revised marks, he was permitted to appear in the type writing, computer proficiency and the viva-voce test. Moreover, the final aggregate score of the

respondent No.5 was 129 and since this was above the cut off mark (127) for the general category candidate, he was rightly included in the final

select list notified on 17.12.2009 (Annexure-F).

5. I have considered the above submission made by the rival counsel and have also perused the materials on record. The last candidate in the general

category had the aggregate 127 marks in the recruitment test and therefore, the writ petitioner with lesser mark (126), was rightly excluded from the

final select list. The selection of the respondent No.5, with the higher aggregate score of 129, on this count is also found to be justified.

6. Moreover, I find satisfactory explanation for allowing the respondent No.5, to participate in the next segment of the recruitment test, as the

corrigendum notice reflecting his success in the written test was notified on 25.8.2009 (Annexure-E), well before the next segment of the recruitment

test was undertaken by the authorities.

7. On the issue of notifying 20 roll numbers in the final select list against 15 advertised vacancies, it is reasonable for the appointing authority to include

few additional candidates in the event of failure of any of the selectees to join the post and therefore, on this count, no infirmity is seen with the

selection process.

8. In the above circumstances, this challenge to the recruitment test is found devoid of merit and the same is accordingly dismissed, leaving the parties

to bear their own cost.