

(2019) 11 GAU CK 0025
In the Gauhati High Court
Case No : Writ Appeal No. 190 Of 2019

Assam Public Service Commission And 2 Ors	APPELLANT
Vs	
Pranjal Kumar Sarma And Anr	RESPONDENT

Date of Decision : 08-11-2019

Acts Referred:

Citation : (2019) 11 GAU CK 0025

Hon'ble Judges : Achintya Malla Bujor Barua, J; Nelson Sailo, J

Bench : Division Bench

Advocate : C Boruah

Final Decision : Disposed Off

Judgement

AM Bujor Barua, J

1. Heard Mr. C Boruah, learned counsel for the appellants. Also heard Mr. GP Bhowmik, learned senior counsel for the respondent No.1.

2. Pursuant to the advertisement dated 17.05.2018 of the Assam Public Service Commission (for short, APSC), the respondent No.1/ writ petitioner

appeared in the Combined Competitive (Preliminary) Examination 2018 conducted by the APSC. In the results declared on 30.12.2018 of the

preliminary examination, the respondent petitioner was declared to be successful. As per the notification dated 15.05.2019 of the APSC, the

successful candidates in the preliminary examination were required to submit their application forms for the Combined Competitive (Mains)

Examination 2018 by downloading the appropriate form from the website of the APSC. It was provided in the notification that the downloading can be

done from 16.05.2019 and the last date for submission of form was 07.06.2019. Further, it was provided in the notification that the APSC will not

receive any application after the last date of submission of application.

3. In the instant case, the respondent No.1/writ petitioner submitted a representation on 15.06.2019 that certain events that had taken place in his family which had prevented him from submitting his application form by 07.06.2019 and, therefore, a request was made that he be allowed to submit his form even after the last date of submission of application form i.e. 07.06.2019. In the representation, the respondent No.1/writ petitioner stated that

his father was suffering from cancer because of which the respondent No.1/writ petitioner was required to be present for some urgent medical

treatment which was in the nature of life saving for his father. As the request of the petitioner was not attended by the appellant, APSC, he preferred

a writ petition before this Court being WP(C)No.4668/2019. In course of the writ petition, the Secretary to the APSC by the communication dated

15.07.2019 informed the learned counsel for the APSC that the Commission could not allow the writ petitioner Pranjal Kumar Sarma to submit his

application form. In the said communication, the APSC provided as under:

“In inviting a reference to the subject cited above, I am directed to state that the Commission could not allow the petitioner Pranjal

Kumar Sarma to submit application form and sit in the C.C(main) Exam 2018 on the basis of his petition dated 15.06.2019 as the

Commission has set a time limit for such an exercise which is applicable to all candidates including the petitioner and the petitioner has

failed to conform to and abide by the said time limit.”

4. The reasons given by the APSC for denying the writ petitioner to submit the application form was that the communication having set a time limit for

such exercise, which is applicable to all candidates including the respondent No.1/writ petitioner, and the respondent No.1/writ petitioner having failed

to conform to the time limit, his request for submission of application form could not be accepted. Be that as it may, by the order dated 16.07.2019, this

Court rejected the said reason put forth by the APSC and directed the authorities in the APSC to allow the respondent No.1/writ petitioner to appear

in the Combined Competitive (Mains) Examination 2018 which was supposed to be held from 22.07.2019, although, the examinations were not held

from 22.07.2019, but held at some subsequent date. Be that as it may, the

respondent No.1/writ petitioner on the basis of the order dated 16.07.2019

did appear in the Combined Competitive (Mains) Examination 2018. Against the order dated 16.07.2019 of the learned Single Judge, this intra-court

appeal has been preferred by the APSC.

5. In the appeal, Mr. C Boruah, learned counsel for the APSC raises the contention that the time set forth in the notification dated 15.05.2019 that the

last date for submission of application form is 07.06.2019 has its own sanctity and if the Commission does not adhere to it, the same may result in a

situation where many other such candidates who had failed to submit their form within the last date would again come forward and make their claim.

We understood the anxiety expressed by the appellant, APSC from the point of view that if the sanctity of the last date of submission of form is not

maintained, the same would result in a situation where many such candidates who may not have submitted their forms within the last date would come

forward and make a claim that their respective forms are to be accepted. But again maintaining the sanctity of the last date also cannot mean that

there cannot be any exceptional circumstance even in the event of any candidate having some overwhelming reason beyond his control to miss out the

submission of the application form within the date provided and because of the sanctity of the last date maintained by the APSC they cannot under

any circumstance be allowed to compete in the Mains examination.

6. We are of the view that both the extremes would be unacceptable that all such candidates who do not adhere to the last date be also allowed to

submit their application or impose the sanctity of the last date to such extent that under no circumstance anybody would be allowed to submit their

application. There may be certain in between situations where a candidate may be because of some genuine reasons beyond his control be not able to

submit his application on the last date although for all other purpose he would have so submitted. If we accept the approach of maintaining a strict

sanctity, it also cannot be ruled out that even the best of a candidate in merit may be left out of the consideration which again would not be in public

interest.

7. We are of the view that certain circumstances where it is beyond the control of a given candidate to submit his application within the last date be

given a due consideration. Events like, bereavement in family, or a candidate

himself or an immediate family members falling seriously ill requiring immediate medical attention are some social compulsions which cannot be totally ignored by the APSC and be not taken into consideration for taking an appropriate decision in a given case whether the applications are to be accepted beyond the last date or not. But, again we reiterate that such event must be of such over whelming nature that the candidate was actually prevented from submitting his application within the last date.

8. The stand that may be taken would again require a factual determination of its correctness that infact the candidate concerned was actually so

prevented. In the circumstances, we would like to interpret the provision of the last date of submission of application form in the notification dated

15.05.2019 to mean that in a given exceptional circumstance, which the candidate concerned establishes before the APSC, a due consideration be

given as to whether the application form of such candidate can be accepted even after the last date of the submission of application form. But

definitely, such consideration should not be extended to the extent that it can also be done after the Mains examination had actually started. A more

reasonable approach would be to allow such considerations upto a stage where the process had not reached any irreversible stage.

9. In view of the above, we modify the direction of the learned Single Judge to the extent that the reasons set forth by the respondent No.1/writ

petitioner in his application before the APSC stating the ground that his father was suffering from cancer and he had to provide urgent medical

attention to his father for saving his life be given a due consideration by the APSC for arriving at a conclusion as to whether the submission of the

application form by the respondent No.1/writ petitioner in the Mains examination can be accepted or not.

10. We partly allow the appeal and, accordingly, modify the order of the learned Single Judge to the extent indicated above.

11. The above requirements be done within a period of 15 days from today. But definitely before the results of the Mains examination are declared.

12. Appeal stands disposed of in the above terms.