

(2000) 06 GAU CK 0022
In the Gauhati High Court
Case No : WP (C) No. 185 of 1999

Debasish Deb

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 30-06-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2001) CriLJ 1214 : (2000) 3 GLT 58

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Mr. M. Kar Bhowmik and Mr. B.C. Das, for the Appellant; Mr. K.N. Bhattacharjee and Mr. S. Bhattacharjee, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. M. Kar Bhowmik, learned counsel along with Mr. B.C. Das, learned counsel for the petitioner. Also heard Mr. K.N. Bhattacharjee, learned sr. counsel along with Mr. S. Bhattacharjee, learned counsel for the respondents.

2. The petitioner Shri Debashish Deb appeared in a selection for the post of Assistant Account, held by the North Eastern Electrical Power Corporation (NEEPCO), respondent No. 2. He also received appointment letter, the last date of joining was 3.5.1999. When he went to join the office of the respondent No. 4 in pursuance of the appointment letter, he was not permitted to join. Subsequently, on 12.4.1999, he was informed that the appointment to join. Subsequently, on 12.4.1999, he was informed that the appointment letter had been erroneously endorsed to the petitioner due to typographical mistake, hence the same stands cancelled. The petitioner has grievance against the said cancellation of his appointment letter.

The defence of the petitioner is that in the said selection, two candidates in the same name Shri Debashish Deb participated. The petitioner was at C.S. No. 239, another candidate of the same name Shri Debashish Deb bearing C.S. No. 217

was selected. His name appeared in the merit list. So, the appointment order of the petitioner was cancelled, the mistake occurred in sending the appointment letter to the petitioner. The another candidate Shri Debashish Deb bearing appointment order No. 217 was allowed to join on the post and he has been working since then. The original records of selection have been produced before the Court. I have perused the records and I find that 5 persons were selected in the said selection, the candidate in the name of Shri Debashish Deb bearing C.S. No. 217 was selected. His performance in the selection was much better than the petitioner. Since the petitioner had also the same name an inadvertent mistake occurred on behalf of the respondents in issuing the appointment letter. The mistake was immediately detected and the appointment letter of the petitioner was cancelled. On the basis of the result, the respondents have every right to cancel the appointment of the petitioner. There is no question of violation of Articles 14 and 16 of the Constitution or any provision law.

3. Learned counsel for the petitioner relied upon the decisions of the Supreme Court in *Shrawan Kumar Jha and others Vs. State of Bihar and others*, and argued that the petitioner was not given opportunity of being heard before the petitioner's appointment was cancelled. The facts of the case before the Supreme Court were entirely different. In that case, the question was whether the appointing authority had authority or no authority to cancel the appointment. On the facts of the case, the Supreme Court held that opportunity of hearing was necessary where before cancelling the appointment, The Supreme Court observed thus -

"It is not necessary to go into all these questions. In the facts and circumstances of this case, we are of the view that the appellants should have been given an opportunity of hearing before cancelling their appointments. Admittedly, no such opportunity was afforded to them. It is well settled that no order to the detriment of the appellant could be passed without complying with the rules of natural justice."

4. In the present case, the facts are entirely different. The petitioner has not been selected at all in the said selection, no right has accrued in his favour. No opportunity of hearing was necessary before cancelling the appointment. The facts of the case before the Supreme Court were different and are not applicable in the present case.

5. Learned counsel for the petitioner further relied upon the decisions of the Supreme Court in *S.L. Kapoor Vs. Jagmohan and Others*, and in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, In my considered view, these two decisions of the Supreme Court do not help the petitioner in the instant case.

6. The respondents were perfectly justified in cancelling the appointment letter of the petitioner. The writ petition is accordingly dismissed. Costs on parties.