
(2018) 04 GAU CK 0105
In the Gauhati High Court
Case No : WP(C) 1747 of 2011

HIRANYA MAYEE BRAHMA

APPELLANT

Vs

THE STATE OF ASSAM AND ORS

RESPONDENT

Date of Decision : 26-04-2018

Acts Referred:

Citation : (2018) 04 GAU CK 0105

Hon'ble Judges : HRISHIKESH ROY

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Heard Mr. H. Das, the learned counsel appearing for the petitioners. Also heard Mr. S.S. Roy, the learned Govt. Advocate, appearing for the

respondent Nos.1 & 2. The Bodoland Territorial Council (BTC) and their officials (respondent Nos.3&"5) are represented by, Mr. M. Khataniar, the

learned standing counsel, BTC. However the respondent Nos.6&"11 are unrepresented, although notice was served/deemed to be served, on all the

private respondents.

2. The seventeen petitioners were appointed as Anganwadi Worker in the ICDS Projects in Chirang, Bongaigaon and Kokrajhar District and the

duration of their tenure is between 13&"27 years, as is reflected in paragraph 3 of the writ petition. When the process of induction to the cadre of

Supervisor for the serving Anganwadi Workers was initiated through the advertisement dated 8.11.2010 (Annexure-III), issued by the BTC

authorities, the petitioners offered their candidature and participated in the written and the viva voce test. But despite their empanelment in the waiting

list they could not secure appointment and accordingly, the aspirants have

challenged the selection process.

3.1. The learned counsel, Mr. H. Das for the petitioner contends that the private respondent Nos. 11, who were empanelled in the main select list,

had much shorter tenure of service as Anganwadi Worker and therefore, it is argued that the selection of the juniors for induction to the higher cadre

of Supervisor is unjustified.

3.2. According to the petitioners, the selection exercise was overwhelmingly influenced by higher credit in the viva voce segment and accordingly, the

process itself is projected to be legally unsustainable.

4.1. On the other hand, Mr. M. Khataniar, the learned counsel appearing for the selecting authorities refers to the counter affidavit, filed by the Joint

Secretary of the Social Welfare Department, BTC, to project that the respondent Nos. 11, who were empanelled for appointment had aggregate

score of 56 or more marks. On the other hand, the petitioners' aggregate score was below 56 and that is why in the select list dated 24.1.2011

(Annexure-VII), 32 candidates with better performances were shortlisted in order of merit, for appointment to the 32 advertised vacancies of ICDS

Supervisors and equal number of candidates were empanelled in the waiting list. Mr. Khataniar therefore argues that 32 candidates were appointed on

the basis of merit and provision was also made to appoint persons from the waiting list in vacancies which may arise within a year of selection.

4.2. The BTC counsel refers to the two chart(s) enclosed as Annexures to the counter affidavit to project that those with aggregate marks of 56 to 71

in the written and viva-voce segments, were empanelled for appointment in the main select list prepared on 24.1.2011 and those in the waiting list had

lower aggregate marks ranging between 45 to 55.

5. The advertisement issued on 8.11.2010 (Annexure-III), shows that 32 posts of Supervisors were available and selection from the eligible

Anganwadi Workers with 10 years experience, were to be made on the basis of the written test with 70 marks and viva-voce test with 30 marks.

Those who qualify in the written test were to be shortlisted for the viva-voce segment. The empanelment in the select list/waiting list was on the basis

of aggregate score in both segments.

6. What is important to bear in mind here is that the length of tenure of service as Anganwadi Worker had no role in the selection and the candidates

were to be appointed only on the basis of their performance in the recruitment test. Therefore, the projection of faulty selection because few with

shorter tenure had succeeded can hardly be accepted. The petitioners were well aware of the procedure for selection and participated in the test

without any demur and therefore, it will not lie in the mouth of the unsuccessful candidate to project that selection to the post of Supervisors, should

have been made on the basis of the length of tenure as Anganwadi Worker, of the concerned applicant.

7. With the assistance of the rival counsel, I have compared the marks secured by those kept in the waiting list and also those empanelled in the select

list and find that the performance of most selected candidates, in the written test were better. Moreover, the marks awarded in the viva-voce segment

do not suggest any unusual weightage for those who were successful. The resultant feeling is that a bonafide selected exercise was undertaken and

appointments have been given on merit, on the basis of performance in the recruitment test.

8. During hearing, the learned counsel Mr. H. Das submitted that two of the petitioners, namely, Suchila Hajoary (petitioner No.6) and Sanima Islary

(petitioner No.14), who was empanelled in the waiting list, have also been appointed.. In this context, Mr. M. Khataniar, the learned standing counsel

for the BTC, on the basis of verbal instruction submits that from the waiting list dated 24.1.2011 (Annexure-VII), seven persons (including two

petitioners) were appointed until 2016 in the resultant vacancies, but the balance waiting list have not been acted upon, so far.

9. The waiting list was notified to be valid only for one year to take care of any unfilled vacancy of Supervisors and the Court now learns that seven

from that list were appointed during the pendency of the case. In such backdrop, appointment of more persons from the waiting list will not be justified

as it will impact the aspirations of others, who may have qualified in the meantime for the cadre of Supervisor.

10. Since all the advertised 32 posts of Supervisor, for which the recruitment process was initiated through the advertisement issued on 8.11.2010

(Annexure-III), have been filled up and the selection and appointment is found to be based on merit, the petitionersâ?? plea for a fresh selection

exercise can hardly be supported. They have participated in the Selection process without any reservation. Moreover, few of them have also been

appointed from the waiting list. Therefore there can be no justification to interfere with the bonafide exercise undertaken by the authorities.

11. The writ petition is found devoid of merit and the same is accordingly dismissed by leaving the parties to bear their respective cost.