
(1995) 08 GAU CK 0010

In the Gauhati High Court

Case No : Writ Appeal No. 282 of 1993 (in Civil Rule No. 3640)

Indian Airlines and Another

APPELLANT

Vs

Debashis Sutradhar and Others

RESPONDENT

Date of Decision : 22-08-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1995) 3 GLR 359

Hon'ble Judges : V.K. Khanna, C.J.; D.N. Baruah, J

Bench : Division Bench

Advocate : N.N. Saikia, J. Chutia, G. Deka and M. Zimoni, for the Appellant; M. Singh, B.K. Sannah and M.K. Choudhury, for the Respondent

Final Decision : Allowed

Judgement

V.K. Khanna, C.J.—This appeal has been filed against the judgment of the learned Single Judge passed in Civil Rule No. 3640/91 dated 2.6.93.

2. We have heard Mr. N.N. Saikia, the learned Counsel appearing on behalf of the Respondents/Appellants assisted by Mr. J. Chutia and Mr. M. Singh, the learned Counsel appearing on behalf of the Petitioners/Respondents assisted by Mr. J.S. Das.

3. The brief facts for the purposes of adjudicating the present appeal are that the Indian Airlines made an advertisement for appointment to the posts of Traffic Assistant and in the advertisement it was made clear that five posts had to be filled-up besides other posts which may become available for filling up on the posts of Traffic Assistant. It is not disputed that in pursuance of that advertisement, the Petitioners/Respondents also appeared in the interview and featured in the Select List which had been prepared and was placed at serial No. 11. It has been admitted" by the learned Counsel appearing on behalf of the parties that as far as the five posts which were specifically advertised, they were filled-up and over and above the aforesaid five posts, certain other posts were

filled-up in pursuance of the advertisement made for direct selection for the posts of Traffic Superintendents.

4. The learned Single Judge noted in the judgment that there was no dispute before him that the Select List was valid till September, 1993. A direction was given that the three writ Petitioners should be appointed as Traffic Assistants when their turns come and if necessary, the validity of the Select List may be extended. It was also observed that despite the direction from the Govt. of India not to give fresh appointment by the Corporation, the same will not come in the way of offering appointment to the Petitioners/Respondents. Mr. Singh, the learned Counsel for the Petitioners/Respondents has frankly stated before us that till now he has not been offered appointment on the post of Traffic Assistant and also that no junior person in the Select List which was prepared has also been offered appointment on the aforesaid post.

5. The legal question which arises for determination in this case is as to whether the direction given by the learned Single Judge that the validity of the Select List will be kept alive till the Petitioners/Respondents have been offered appointment is correct in law or not. The aforesaid question had come for consideration before the Apex Court recently and the Apex Court in the case of Madan Lal and Others Vs. State of Jammu and Kashmir and Others, has held after noticing various other decisions of the Apex Court that in case a Select List is prepared for a specified number of vacancies, then even though the Select List may have been prepared for larger number of candidates, the validity of the Select List comes to an end as soon as candidates have been appointed on the vacancies which were advertised to be filled up and the validity of the Select List would automatically come to an end despite the fact there may be statutory rules which may prescribe that the Select List would remain valid for a certain period. From the aforesaid principle which had been laid down by the Apex Court, it is clear that the Select List is meant to fill up the vacancies which had been specifically advertised and after the filling-up of those vacancies which had been advertised or notified the life of the Select List cannot be extended for the purposes of filling-up the future vacancies as the same would, violate the provisions of Articles 14 and 16 of the Constitution of India. It is clear that some of the candidates may not fulfil the age criteria when the advertisement is made and may fulfil the age criteria in future if the advertisement/notification is made in future for filling-up the future vacancies and keeping alive a Select List for an unlimited period even after filling-up the vacancies for which an advertisement was made would deprive the candidates who would have a chance of getting employment in pursuance of a future advertisement for filling up future vacancies, This very principle has also been laid down by the Apex Court in the case of Hoshiar Singh Vs. State of Haryana and Others,

6. A bare perusal of the judgment of the learned Single Judge clearly shows that the validity of the Select List was upto September, 1993, which period has long come to an end. We cannot imagine by what stretch of imagination, the validity

of the Select List can now be extended upto the year, 1995 for a Selection which had been held in the year, 1989. If we permit the validity of the Select List which had been prepared in pursuance of the examination which had been held in the year, 1989 for selection and appointment in the year, 1995 i.e., after a lapse of six years, in our opinion, it would clearly violate the principles of Articles 14 and 16 of the Constitution of India inasmuch as it would deprive the candidates who had become eligible for applying for selection to be appointed as Traffic Assistants during this period.

7. We are thus of the opinion that the view taken by the learned Single Judge that the validity of the Select List will be extended till the Petitioners/ Respondents are offered appointment is contra to what has been laid down by the Apex Court in the cases mentioned above.

8. For the reasons stated above, we allow the appeal and set aside the judgment of the learned Single Judge in so far as it directs that the Select List will remain valid till the Petitioners/Respondents are offered appointment. However, looking to the entire facts and circumstances of the case, the parties shall bear their own costs.