
(1999) 09 GAU CK 0035
In the Gauhati High Court
Case No : Civil Rule No. 1266 of 1998

Low Veikhui

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 17-09-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Employment Exchanges (Compulsory Notification of Vacancies) Rules, 1960 — Rule 5

Citation : (2000) 1 GLT 509

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : R. Daniel, for the Appellant; R. Raisang, for the Respondent

Final Decision : Allowed

Judgement

H.K. Sema, J.—I have heard Mr. R. Daniel, learned Counsel for the Petitioner as well as Mr. R.S. Raisang, learned Govt. advocate for the Respondents.

2. Office note dated 18.12.98 indicates that service of notice upon the private Respondent No. 5 whose selection and appointment has been challenged in this writ petition has been duly served with the acknowledgement receipt, but none appears on behalf of the Respondent No. 5.

3. In this writ petition, Petitioner has assailed the impugned notification dated 19.9.98 notifying the vacancy and the proceeding of interview held on 28.9.98 pursuant to the aforesaid vacancy notice and the declaration of result dated 14.10.98 and appointment of the Respondent No. 5 by an order dated 19.10.98.

4. The main thrust of the argument of the Petitioner is that the vacancy notice was issued by the Employment Exchange, Imphal West on 19th Sept. '98 calling the eligible candidates for submission of the application on 22.9.98 upto 2.00 P.M. is arbitrary and in ultra vires of the Articles 14 and 16 of the Constitution inasmuch as such short notice has deprived the eligible candidates of equal opportunity to apply for the posts.

5. To appreciate the controversy in proper perspective, the vacancy notice dated 19th Sept. '98 is reproduced:

Govt. of Manipur Employment Exchange, Imphal West, Employment Exchange complex, Lamphelpat. Vacancy Notice Imphal, the 19th Sept. '98.

No. EE/2/57/86. The following posts are lying vacant under the Dy. Commissioner, Labour, Manipur, willing eligible candidates may contact Employment Officer for submission on 22.9.98 upto 2.00 PM.

1. Labour Inspector: 1 (one) No. for General, Scale of pay Rs. 1400-2300/-, Qualification required.

(i) Essential: Degree in Arts/Commerce or Science of a recognised University of its equivalent.

(ii) Desirable: (1) Diploma in Social Welfare of Labour Welfare Laws of a recognised University or Institute.

(2) L.L.B, (3) knowledge of Hindi and Manipuri.

Age : Upto 35 years.

Date, time of Interview: 23.9.98 at 11 AM.

2. Rural Labour Inspector: (1) Reserved for ST-Scale of pay Rs. 1400-2300/- PM.

Educational Qualifications: (1) Essential (1) Degree of a recognised University (2) Knowledge of Manipuri, (ii) Desirable, Background of Rural Development Works.

Age: Upto 35 years.

Date & Time of interview: 23.9.98 at 11 AM at the Dy. Commissioner, Labour, Manipur.

Sd/- Illegible. Employment Officer, Imphal (W) 19/9/98".

6. As would appear from the vacancy notice, barely 3 (three) days were allowed to the intending candidates that too through only Employment Exchange Imphal West Vacancy notice was not published either in the local newspaper or through All India Radio. The time and date of interview fixed on 23.9.98 happened to be a public holiday and it was held subsequently on 28.9.98.

7. Apart from others, the vacancy notice published on 19th Sept. '98 for submission of application on 22.9.98 upto 2.00 p.m. has been issued in flagrant violation of the satisfactory rules namely. The Employment Exchange (Compulsory Notification of Vacancies) Rules 1960. Rule 5 of the said Rules envisages that vacancies requires to be notified to the local employment exchange shall be notified atleast 15 days before the date on which applicant will be interviewed or tested. In the instant case, barely 3 (three) days notice was given by the Employment Exchange Imphal West in utter violation of the statutory rules. It is clearly an arbitrary exercise of power and is hit by Articles

14 and 16 of the Constitution. By applying the short cut notice, many eligible candidates have been deprived of their right from applying for the posts and competing for the posts. Needless to say, the purpose of notifying the vacancies by publishing in the newspaper or announcing in All India Radio is intended to select a better candidate from amongst many applicants.

8. Avoiding multiplicity, I may refer to the decision of the Apex Court rendered in *Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and Others*, This is what the Apex Court has said in paragraph 6 of its judgment:

6. Having regard to the respective contentions, we are of the view that contention of the Respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate is deprived of the right to be considered for appointment to a post under State. Better view appears to be that it should be mandatory for the requisitioning authority/ establishment to intimate the employment exchange and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.

9. In the instant case as already said from the vacancy notice reproduced as above would clearly show that barely 3 (three) days notice was given to the intending candidates thereby depriving many eligible candidates the right of applying for the post and it is clearly an exercise of arbitrary power.

10. In the result the vacancy notice dated 19th Sept. 98, the proceeding of DPC dated 28.9.98 and the declaration of result dated 14.10.98 and the impugned order dated 19.10.98 appointing the 5th Respondent subject to the final outcome of the decision of the Hon'ble High Court in Civil Rule No. 47/94 is hereby quashed and set aside.

This petition is accordingly allowed. Parties are to bear their own costs.