

(2002) 02 GAU CK 0011
In the Gauhati High Court
Case No : Writ Appeal No. 49 of 2002

Matiur Rahman Bhuyan and Another	Vs	APPELLANT
State of Assam and Another		RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Citation : (2002) 1 GLT 316

Hon'ble Judges : R.S. Mongia, C.J.;A.K. Patnaik, J

Bench : Division Bench

Advocate : A.M. Mazumdar, P.K. Goswarni and R. Islam, for the Appellant; S.N. Sarma and T.C. Chutia, for the Respondent

Judgement

R.S. Mongia, C.J.—By an advertisement dated 25.11.99, 30 posts of Junior Engineer (Civil) and 4 posts of Junior Engineer (Mechanical) in the Public Works Department of the State of Assam, were advertised. The aforesaid advertised posts were later on increased to 54 on the basis of the requisition submitted by the appointing authority. The selection was to be made from the merit list prepared on the basis of written examination and viva voce. The written examination was held on 19.3.2000 and the candidates who had secured qualifying marks in the written examination were initially called for viva voce including the present Appellants. We are told that the minimum qualifying marks for being called for viva voce were 110 out of 200. While the interviews/viva voce were going on as stated above, the Assam Public Service Commission on the basis of a report of the committee constituted by it decided in a meeting of the Commission held on 20.7.2001 to cancel the results of the written examination and viva voce. The Commission further decided to call all the candidates for interview irrespective whether they had passed in the written examination or not (as the written examination had been cancelled) including those candidates who had earlier appeared for viva voce as observed above all candidates were called for interview again.

2. The Appellants before us filed a writ petition WP(C) No. 5295/2001 challenging

the cancellation of the written examination as well as their results of the interview. They had also challenged the action of the Assam Public Service Commission in calling them for interview/viva voce again. By an interim order dated 10.8.2001, a learned Single Judge of this Court allowed the interview to go on but directed that the results thereof be not declared. We are told that in response to the call for the interview after the cancellation of the written examination as well as first interview many candidates did appear for interview. However, the learned Counsel for the Appellant, stated that all the Appellants or some of them did not appear in response to the second call for the interview as they had filed a writ petition before this Court.

3. The writ petition was dismissed by the learned Single Judge by the impugned judgment and order dated 10.1.2002 holding that there was nothing wrong in the action of the Assam Public Service Commission in cancelling the written examination and the first interview and further there was no infirmity in basing the selection only on the basis of the interview to be held pursuant to the second call for interview. Hence the present appeal.

4. The learned Counsel for the Appellants has argued that there was no basis or material with the Assam Public Service Commission to cancel the written examination and hold a second interview. We had sent for the records of the Assam Public Service Commission to satisfy ourselves as to whether there was any basis or material to order cancellation of the written examination. The learned Counsel for the Assam Public Service Commission has placed before us the report of the committee constituted by the Assam Public Service Commission for going into the matter. Many grounds have been mentioned in the said report. One of the grounds is that the candidates in the call letters for the written examination were told by the annexures attached to the call letters that the candidates while answering the objective type questions have to encircle only one of the four options which they think is to be the correct answer and if according to them the option they had encircled was wrong they may cross that answer and encircle the right answer. However, this was specifically barred in the instructions given in the answer sheets containing the four options which were given in the examination and the instructions in the answer sheets were that if any answer was crossed and Anr. answer was encircled then no credit of other answer was to be given. According to the Appellants it was clarified by the invigilators in the examination hall that previous instructions which were attached to the call letters for the written examination will be followed. We are of the view that this factum alone could lead to confusion in the minds of the examinees and the examiners and we find nothing wrong in the decision of the Assam Public Service Commission to cancel the written examination as well as the interviews held in respect of those candidates who had been called for the interview on the basis of the written examination.

5. However, the question still remains whether the Assam Public Service Commission can be allowed to change the method or criteria for selecting

candidates after the process had already been set by issuing an advertisement and by holding written examination? Can the Commission be allowed to select candidates only on the basis of interview? According to us, answer has to be in the negative. The method of selection which started pursuant to the advertisement cannot be changed midway. It must be taken to its logical end. We have given our thoughtful consideration on the matter as to what should be done now. Having observed as above that the Assam Public Service Commission cannot change the criteria or the basis for selection and resort to selection only by interview in this particular case, the only way out which seems to be reasonable to us is that the Assam Public Service Commission should hold the written examination again according to criteria earlier laid down and call the candidates for viva voce who obtain qualifying marks and prepare merit list according to marks obtained in the written examination and viva voce as per the criteria earlier fixed. Let the re-examination be held within a period of 3 months. All the candidates who had applied in response to the advertisement dated 25.11.99 be informed by registered call letters that the examination would be held on a particular day. At least one month notice must be given to them. Additionally candidates may be informed through the press about the written examination. The writ appeal is disposed of accordingly in the above terms.

A copy of this judgment attested by the Bench Assistant, be furnished to the learned Counsel for the Assam Public Service Commission.