
(2003) 03 GAU CK 0034
In the Gauhati High Court
Case No : W.A. No. 564 of 2002

Nabiruddin Ahmed and Others	Vs	APPELLANT
State of Assam and Others		RESPONDENT

Date of Decision : 11-03-2003

Acts Referred:

Citation : (2003) 2 DMC 746 : (2003) 3 GLR 24

Hon'ble Judges : P.P. Naolekar, C.J;Ranjan Gogoi, J

Bench : Division Bench

Advocate : A.S. Choudhury, R. Mazumdar, I. Hissain, A. Malleque and N.N. Ahmed, for the Appellant; G.A., for the Respondent

Final Decision : Dismissed

Judgement

P.P. Naolekar, C.J.—The advertisement was issued for filling up the post of Mandal lying vacant on the date of the advertisement dated 18.9.1998. In pursuance of the advertisement, 38 candidates were selected and the select list was published on 19.6.1999. The select list was extended up to 31.12.2000 by the Government and during this period, 30 candidates, out of the select list, were appointed. The petitioner-appellants, although, were in the select list, admittedly below the 30 candidates, who had already been appointed, have approached this Court for seeking direction for giving appointment in pursuance of the said advertisement, on the allegation that six vacancies which have been detected, were of the year 2000, and they being in the select list, direction be issued for their appointment.

2. Learned Single Judge has dismissed the writ petition on the ground that once the select list has expired on 31.12.2000, no direction could be issued for filling up of the vacancies from that select list, although it may have occurred in the year 2000.

3. Learned counsel for the petitioners-appellants submits that when six vacancies occurred during the existence of the select list, those vacancies should be filled up giving operation to the select list. The petitioners-appellants being in the

select list are entitled to get appointment. We cannot agree with the submission made by the learned counsel for appellants. It is clear from the advertisement issued on 18.9.1998 that the advertisement has been issued for the vacancies that were detected to be vacant or which are being found to be vacant on the date of the advertisement. Admittedly, six vacancies for which the appellants had made a claim, were not the vacancies within the knowledge of the authorities, at the time of the advertisement being issued. Apart from this, it is a settled principle of law that simply because a person has been selected, he has no right to claim appointment to the post, unless it is established that the less meritorious person is being given appointment over and above his merit. In the present case, admittedly, the appellants are below in the merit to the candidates, who had been selected and appointed. The select list having been expired on 31.12.2000 cannot be made operative for filling up of the post, which fell vacant or detected to have been fallen vacant after the date the select list has expired.

4. For the aforesaid reasons, we do not find any good and sufficient reason to interfere with the order passed by the learned Single Judge. The appeal is dismissed.