
(2002) 03 GAU CK 0016

In the Gauhati High Court

Case No : Writ Petition (C) No. 20 (AP) of 2002

Ramakrishna Libang

APPELLANT

Vs

State of Arunachal Pradesh and Another

RESPONDENT

Date of Decision : 27-03-2002

Acts Referred:

Citation : (2002) 2 GLT 408

Hon'ble Judges : N. Surjamani Singh, J

Bench : Single Bench

Advocate : J.K. Panggang, for the Appellant; R.H. Nabam, Addl. Sr. G.A., for the Respondent

Judgement

N.S. Singh, J.

In this writ petition, the Petitioner Shri Ramakrishna Libang made a prayer for a direction to the State Respondents/competent authority to appoint him to the post of Junior Teacher in terms of the select list prepared by the Respondents-authority as seen in the document marked Annexure-V to the writ petition by contending inter alia, that in response to a related advertisement published by the Director of Education Govt. of Arunachal Pradesh, Naharlagun, the Petitioner applied for the post of Junior Teacher in Social Studies and he was called for written and viva-voce test and on the basis of his performance in the said test/interview conducted by the authority, he was selected and he has been placed in the panel/waiting list at Serial 42 in order of merit, but he has not been given appointment to the said post of Junior Teacher in Social Studies, though as many as eight candidates whose names appeared below the name of Petitioner in the waiting list have been given appointment very recently. It is also the case of the Petitioner that some candidates who are similarly situated with the Petitioner approached this Court by filing writ petitions being WP(C) 162 (AP) 2000 and WP(C) 94(AP) 2000 by taking the same plea which the Petitioner is pleading in the instant case and, they got the relief from this Court under the common judgment and order dated 17.8.2001 passed in the said cases. Mr. J.K.

Panggang, learned Counsel contended that in terms of the common judgment and order dated 17.8.2001 passed by this Court in those two cases those writ Petitioners have been given appointment to the post of Junior Teachers, and as such similar benefits also should be afforded to the present writ Petitioner.

2. No counter affidavit is filed by the Respondents State. Mr. R.H. Nabam, learned Addl. Sr. Govt. Advocate for the State Respondents admits the existence of the common judgment and order dated 17.8.2001 passed by this Court in WP(C) 162(A) 2000 and WP(C) 94(AP)2000 as seen in the document marked as Annexure-VI to the writ petition.

3. There is material on record that the authority concerned/Respondents had afforded/appointments to some candidates whose names appeared below the name of the present writ Petitioner in the related select list in as such as, 1) Ms. Liter Bagra Serial No. 63, 2) Sri Jumna Padu, Serial No. 87, 3) Sri Ajanta Modi, Serial No. 114, 4) Ms. Yago Yaka, Serial No. 130, 5) Sri Bajir Gamoh, Serial No. 160, 6) Ms. Deyir Ete, Serial No. 111, 7) Sri Amurah Pertin, Serial No. 201 and 8) Sri Rontu Tahor, Serial No. 255, have been given appointment to the post of Junior Teachers and it is also not disputed that the name of the Petitioner appears at Serial No. 42. I am of the view that the present case is also covered up by the said common judgment and order dated 17.8.2001 passed in WP(C) 162 (AP) 2000 and WP(C) 94 (AP) 2000, and as such, the Petitioner also should get the same benefit which was afforded by this Court to those writ Petitioners in the said two cases, to the present writ Petitioner also:

It is well settled, that a selected candidate whose name finds in the select list cannot claim for appointment as of right to a post unless the relevant recruitment rules so indicates, and the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that State has the licence of acting in an arbitrary manner and the State is bound to respect the comparative merit of the candidates as reflected at the recruitment test, and no discrimination can be permitted. In this regard, a reference can be made to a decision of a Constitutional Bench of the Apex Court rendered in Shankarsan Dash Vs. Union of India, , and, also other decisions reported in Union Territory of Chandigarh Vs. Dilbagh Singh and others, and Jatinder Kumar and Others Vs. State of Punjab and Others, .

In U.P. State Mineral Development Corporation Ltd. and Anr. Appellants v. Vijay Kumar Upadhyya and Anr. Respondents reported in (1997)9 SCC 334, the Apex Court held that similarly placed persons are entitled to the same benefits despite practical difficulties on the part of the authority concerned in grant of benefits i.e., regularisation of services. In Anr. case between U.P. State Road Transport Corpn. and another Vs. Gobardhan and anothers, , the Apex Court held thus:

Though we find force in the contention of Shri Pradeep Mishra that the candidates have no right to the post since they are in the waitlist since the Corporation has already appointed some of the juniors who are in the waiting-

list, necessarily, before following that procedure, they should have given intimation to those candidates who were placed in the waiting list if even then they did not turn up, then it could be taken that they have waived the right of appointment. But in this case, it might be that a candidate who was in the waiting-list was under the expectation that he would get an order of appointment from the Corporation as and when the vacancy arises and may be he could not read the newspaper, though published. Under these circumstances we think that after the cancellation of the waitlist procedure, though no one has a right those who were on the waitlist need to be considered in accordance with the rules in view of the fact that their juniors/had got appointment and were even regularised. Therefore, the Appellants are directed to consider the case of the Respondent as a special case and make appointment according to the procedure.

The said common judgment and order dated 17.8.2001 passed in the said two cases is reported in *Tatortaloh and Others Vs. State of Arunachal Pradesh and Others*, I have perused it. In my considered view, the writ Petitioner has enforceable legal rights in the instant case. Accordingly, I direct the State Respondents/competent authority to effect appointment to the writ Petitioner in the post of Junior Teacher in Social Studies by maintaining the said select list mentioned above, within a period of one month from the date of receipt of this judgment and order. The writ Petitioner may obtain a certified copy of this judgment and order and submit the same to the appropriate authority for doing the needful in the matter in terms of this judgment and order.

4. For the reasons, observations and directions made above, this writ petition is finally disposed of but, no other order as to costs.