
(2006) 05 GAU CK 0049
In the Gauhati High Court

Ranjit Kumar Bordoloi and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 05-05-2006

Acts Referred:

Citation : (2006) 3 GLR 651

Hon'ble Judges : B. Sudershan Reddy, C.J; Anima Hazarika, J

Bench : Division Bench

Judgement

A. Hazarika, J.—The legality and validity of the judgment and order dated 12.2.2004 passed by the learned Single Judge, has been questioned by filing three sets of appeals, being writ appeal No. 53/2004, 54/2004 and 56/2004. Since the appeals arise out of a common judgment, these three appeals have been taken up together for disposal.

2. In order to determine the controversies made in these appeals, narration of a brief facts is necessary to arrive at a decision.

3. Admittedly, the Government of Assam, Home Department through the Inspector General of Police, Assam, had issued an advertisement on 6.9.1997, inviting applications from eligible candidates to fill up the posts of Sub-Inspector of Police (Armed Branch and Unarmed Branch). In the advertisement, it was mentioned that total number of vacancies likely to occur are 112 posts.

Accordingly, a written test was held on 26.4.1998 and the physical test was to be held on 27/28.4.1998. However, no physical test was held as scheduled, but the candidates were informed to wait till the outcome of the written and accordingly the interview was held on 26.5.1999.

4. That the Selection Board has prepared a list of 1803 candidates in order of merit, which was displayed in the office Notice Board on 1.2.2000 and again on 8.1.2001. The record of the case and argument advanced by the parties, via-a-vis the pleadings, so made, it would reveal that out of 1803 candidates selected in order of merit, appointments were made to fill up 174 vacant posts from serial

No. 1 to Serial No. 174 of the said merit list. However, out of the aforesaid 174 candidates who were offered appointments on 4.7.2000, only 169 candidates reported for joining.

5. During the validity of the aforesaid merit list, The Director General of Police, Assam had requisitioned the Commissioner and Secretary, Government of Assam, Home Department, vide letter dated 21.12.2000 requesting him to obtain permission of the State Level Empowered Committee (SLEC in short) to fill up 77 number of vacancies in the rank of Sub-Inspectors of Police by way of direct recruitment from the results of the previous recruitment, inasmuch as, the vacancies of 77 number of Sub-Inspectors of Police were required to be filled up on account of death, retirement, etc.

6. Therefore, a note dated 5.1.2001 was put up for consideration of the Director General of Police, Assam, in respect of 88 numbers of vacancies which had arisen by that time, in the cadre of Sub-Inspector of Police (UB), Assam and accordingly, approval was sought, as to whether the aforesaid vacancies can be filled up from the list prepared in order of merit as indicated above. The Director General of Police, Assam had approved to fill up 88 numbers of vacancies from serial number 175 of the merit list of 1803 candidates.

7. In pursuant to the aforesaid approval, the physical test of candidates, from serial number 175 to 240 was held alongwith 18 other candidates, belonging to the reserved category from the said merit list. Therefore, it is clear that the 84 candidates from the serial number 175 to 240, including the candidates belonging to the reserved category were undertaken for physical test in order to judge their capability, for appointing them in the vacant posts.

8. That the physical test, so-called by the department from serial number 175 to 240, one candidate remained absent and three other candidates were adjudged below the prescribed height. The physical test so held, would reveal that, only 62 candidates were successful in the said test. It is worth mentioning that the candidates belonging to the reserved category, 18 in numbers, only 15 were came out successful in the physical test, because one candidate was adjudged below the prescribed height and two remained absent in the physical test. The total candidates numbering 77 (62+15) were called for medical examination. Two candidates, namely Dulal Brahma and Rajen Deuri did not turn up for medical examination. Therefore, 75 candidates, out of 77 candidates were found suitable for appointment.

9. However, the Home Department, vide letter dated 20.2.2001 issued a communication to the Additional Director General of Police (A), Assam, conveying the clearance of SLEC, in respect of 80 numbers of Sub-Inspector of Police for direct recruitment by observing necessary formalities. In pursuance thereof, 75 candidates, who were found suitable for appointment, appointments were offered to all the 75 candidates on 1.3.2001. It is pertinent to mention herein that out of the 75 candidates, though offer of appointment was issued to Shri Priynako

Chelleng, whose name appeared at serial number 230 in the merit list, did not join in the post. The rest 74 candidates duly joined in the post.

10. From the facts stated hereinabove, that against 88 clear vacancies in the cadre of Sub-Inspector of Police, under the Government of Assam, Home Department, 74 candidates were already appointed and only 14 posts are yet to be filled up from the list prepared in order of merit.

11. We have heard the learned Counsel appearing for the parties and perused the materials available on record, including the additional affidavit filed by the State of Assam, on a query made by this Court during the course of argument, regarding the vacancy position of Sub-Inspector of Police exists as on today.

12. In the above background, the order passed by the learned Single Judge in setting aside the appointments of 84/76 Sub-Inspectors of Police requires modification for the following reasons, namely;

(i) Admittedly, advertisement was issued for filling up of total number of vacancies likely to occur 112 posts of Sub-Inspectors of Police and accordingly a select list of 1803 candidates was prepared in order of merit.

(ii) From the said merit list of 1803 candidates, appointments were made to fill up 174 vacant posts from serial Number 1 to 174 of the said select list.

(iii) Out of the said 174 candidates, 169 candidates reported for joining.

(iv) During the validity of the merit list, 77 more vacancies occurred due to the retirement, death, etc. for which requisition was made to obtain permission from SLEC in order to fill up the vacancies by direct recruitment from the aforesaid list.

(v) However, from the internal communication made by the authorities shows, 88 numbers of vacancies had arisen in the cadre of Sub-Inspector of Police at the relevant time. Therefore, approval was sought to fill up the same from serial number 175 to 240 from the merit list of 1803 numbers of candidates including the 18 numbers of candidates belonging to the reserved category.

(vi) Accordingly, 66 candidates were called for physical test. The 18 candidates belonging to the reserved category were also called for the physical test.

(vii) Altogether 77 numbers of candidates (62+15), were called for medical examination. But two candidates did not turn up for medical examination and altogether 75 candidates were found suitable for appointment.

(viii) Out of these 75 candidates, who were offered appointment on 1.3.2001, one candidate did not join and the remaining 74 had joined in service.

(ix) Out of 88 vacancies, 74 candidates have already joined and remaining 14 posts are yet to be filled up.

13. Therefore, this Court hold that the remaining 14 posts are to be filled up in the rank of Sub-Inspector of Police from the list prepared in order of merit, i.e.,

from 1803 numbers of candidates selected in the interview. Therefore, this Court direct the respondent authority to hold physical and medical test of the candidates from the select list of 1803 and prepare a select list in order of merit to fill up the aforesaid 14 numbers of vacancies existed.

14. It is incumbent on the part of the respondents to call the candidates, selected in order of merit, for the physical and medical test within a period of two months from the date of receipt of the certified copy of this order.

15. In the result, the appeal is disposed off accordingly.

16. Parties are left to bear their own costs.