
(2014) 08 BOM CK 0134

In the Bombay High Court

Case No : Writ Petition Nos. 139 and 272 of 2013

Rohan Amrut Gaonkar

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Constitution of India, 1950 — Article 166, 226

Citation : (2014) 6 ALLMR 46 : (2014) 6 BomCR 205 : (2015) 1 MhLj 267

Hon'ble Judges : U.V. Bakre, J;R.V. More, J

Bench : Division Bench

Advocate : S.D. Lotlikar, Senior Advocate, N. Patil and Ryan Menezes, Advocate for the Appellant; A.N.S. Nadkarni, Advocate General, D. Lawande, Government Advocate and N. Pai, Additional Government Advocate, Advocate for the Respondent

Final Decision : Dismissed

Judgement

R.V. More, J.—The petitioners in both the Writ Petitions filed under Article 226 of the Constitution of India are challenging common order/memorandum dated 12.4.2013 cancelling the offer of appointment given to each of them. Both the petitions involve common issue and, therefore, are being disposed of by this common judgment.

2. Brief facts giving rise to the above petitions are as follows:-

Respondent no. 2 issued an advertisement on 12.1.2011 inviting application from eligible candidates for filling up vacancies to the posts of Commercial Tax Inspectors. By this advertisement, respondent no. 2 proposed to fill 21 vacancies and these vacancies were subject to variation. In response to this advertisement 1710 candidates including the petitioners in both the petitions applied for the post of Commercial Tax Inspector. The written test was held on 26.6.2011 and thereafter 250 candidates were short listed based on the marks obtained by them in the written test. Short listed candidates were asked to appear for oral interview from 30.11.2011 to 2.12.2011. The results were declared on

23.12.2011 and on very same day respondent no. 2 issued offer of appointment by way of memorandum to 45 candidates. The petitioners in both the petitions are amongst those 45 candidates who received offer of appointment to the post of Commercial Tax Inspector. The Election Commissioner of India announced the date for conduct of general election of Legislative Assembly of State of Goa on 24.12.2011 and on very same day Model Election Code of conduct came into force. It is the case of the petitioners that they accepted the offer of appointment and by a written communication conveyed their acceptance of offer to respondent no. 2. However, despite this no action was forthcoming from respondent no. 2. The petitioners thereafter issued legal notice on 30.11.2012 to the Secretary (Finance), Government of Goa, making grievance as to why orders of appointments are not issued. This notice, though received by the Secretary (Finance), was not replied and thereafter, the petitioners were constrained to file the above petitions in the month of February and March, 2013 respectively.

3. It is the case of the petitioners that they have been selected for the post of Commercial Tax Inspector by the committee duly constituted under the Rules. The Selection list was forwarded to the Government of Goa and the Government approved this list and thereafter offer of appointment was given to them by memorandum dated 23.12.2011. The petitioners further claimed that offer of appointment was accepted by them on/or before 28.12.2011. According to the petitioners, the election code of conduct came to end on 8.3.2012 and despite this the respondents did not take any action and, therefore, they were constrained to issue legal notice and thereafter file present petitions. During the pendency of these petitions the Government of Goa issued memorandum dated 12.4.2013 and cancelled the offer of appointment, Thereafter the petitions were amended seeking reliefs of recalling and/or cancellation of the impugned memorandum dated 12.4.2013.

4. The respondent's case as disclosed in the affidavit in reply is that the entire selection process was carried in undue haste and the letters of offer of appointment were issued on the eve of the Model Election Code of Conduct. The respondents further contend that advertisement dated 12.1.2011 was issued to fill up 21 post of Commercial Tax Inspectors though 13 vacancies were available on the date of issuance of advertisement. Though applications were invited for 21 posts, altogether 45 vacancies were sought to be filled up which were more than double the posts advertised. The respondents contended that short listing for oral interviews of the candidates was done without fixing a criteria and the whole selection procedure was left to the whims and fancies of the officers and without there being any guidelines to that effect. The respondents contend that as per Recruitment Rules ratio of direct recruits to that of promotees is 1:3 of the total strength of Commercial Tax Inspectors. According to the respondents, out of total 84 posts of Commercial Tax Inspector only 21 posts are available for direct recruitment. Out of these 21 posts, 9 posts were already filled and, therefore, 13 vacancies were available. It is also the case of the respondents that process of diversion of vacancies from one category to another category was not

undertaken in accordance with the Rules. Respondents also made grievance about allotment of the marks to the written test and interview. According to them, 30% marks allotted to interview were illegal. The respondents ultimately found that entire selection process is illegal and vitiated and, therefore, by issuing impugned memorandum cancelled the offers of appointment.

5. Mr. Lotlikar, learned Senior Counsel for the petitioners in Writ Petition No. 139 of 2013 submitted that the petitioners were selected by the Scrutiny Committee duly constituted under the Recruitment Rules. List of the selected candidates were forwarded to the Government and the offers of appointment were issued after approval of the selection list by the Government. Mr. Lotlikar learned Senior Counsel further submits that once offer of appointment is given and same is accepted, candidate has vested right to the appointment. He submits that since offer of the respondents is accepted by the petitioners, there is concluded contract between the petitioners and the respondents. Offer of appointment therefore could not have been cancelled. It was also submitted that cancellation of the offer of appointment was done without following the principles of natural justice. The Government having given offer of appointment cannot now say that selection of the candidates is in excess of the vacant posts. Mr. Lotlikar submits that the impugned memorandum/order does not disclose any allegations or fault on the part of the petitioners. He submits that the Government later on supplemented reasons for cancellation of the offer of appointment by filing affidavit. Mr. Lotlikar, accepted that if selection is not approved by the Government, the offer of appointment is vitiated. He however, submits that this was never the case of the Government in the impugned memorandum under which offer of appointment came to be cancelled or nor in affidavit in reply. Mr. Lotlikar in support of his submissions relied upon following decisions:-

1. Dinesh Chandra Sangma Vs. State of Assam and Others,
2. Pralhad Ramachandrarao v/s. University of Goa and another [1991(1) Goa L.T. 162]
3. Rashmi Metaliks Ltd. and Another Vs. Kolkata Metropolitan Development Authority and Others,
4. Shri Umesh K. Naik and others v/s. State of Goa and another [Order dated 25.3.2014 passed by Division Bench in W.P. Nos. 78, 79, 91 and 505 of 2013]
5. Anil Barmu Patil v/s. State of Goa and another [Order dated 7.5.2014 passed in W.P. No. 7 of 2014]
6. Mr. R. Menezes, learned counsel appearing for the petitioners in Writ Petition No. 272/2013 adopted the arguments advanced by Mr. Lotlikar, learned Senior Counsel for the petitioners in Writ Petition No. 139/2013.
7. Mr. Nadkarni, learned Advocate General appearing for the respondents vehemently opposed the petitions. He submitted that every action of the Government has to be fair and if arbitrary the same can be set aside by the High

Court by exercising writ jurisdiction under Article 226 of the Constitution of India. Mr. Nadkarni, submits that the petitioners selection to the post of Commercial Tax Inspector is vitiated and same can be shown from the memorandum cancelling the offer of appointment and/or from the records. He submits that writ of mandamus cannot be given to enforce illegality. Mr. Nadkarni denies the acceptance of the offers of appointment by the petitioners. He submits that so called select list is not signed in the name of the Governor and even the offer of appointment was not given by the government and the same was given by Commissioner of Commercial Tax, therefore, there was no contract which can be enforced by filing petitions. He also submitted that the selection was never approved by the government and, therefore, selection list as well as offer of appointment was vitiated. Mr. Nadkarni, submits that approved strength of Commercial Tax Inspector is 84 and the ratio of direct recruits to that of the promotees is 1:3 and thus only 24 posts are available for direct recruits out of which 9 posts were already filled and only 13 vacancies were there and despite this 21 posts were advertised and 45 candidates were selected. He submits that advertisement was illegal inasmuch as there was no diversion of posts from one category to another category. Mr. Nadkarni also submitted that the result regarding selection of the candidates was declared on 23.12.2011 and on the very same day offers of appointment were given. This was done on the eve of code of conduct. Mr. Nadkarni, submits that the entire selection process is illegal and vitiated and, therefore, the petitioners are not entitled for personal hearing. He lastly submitted that petitions are devoid of any merit and, therefore, no interference is called for. Mr. Nadkarni in support of his submission made available for perusal of this Court original records pertaining to the petitioners' selection; Recruitment Rules and Government of Goa (Allocation) Rules 1987. He also relied upon following judgments:-

1. Commissioner of Police, Bombay v/s. Gordhandas Bhanji [AIR(39) 1952) SC 16]
2. Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others,
3. Tagin Litin Vs. State of Arunachal Pradesh and another,
4. Union of India and Others Vs. O. Chakradhar,
5. Union of India Vs. Shri Rati Pal Saroj and Another,
6. Jitendra Kumar and Others Vs. State of Haryana and Another,
7. State of West Bengal Vs. Subhas Kumar Chatterjee and Others,
8. Deepak V. Naik and others v/s. State of Goa and another [W.P. No. 488 of 2012]
9. Bhupendra Nath Hazarika and Another Vs. State of Assam and Others,
8. At the outset, we will consider Mr. Lotlikar's arguments that Government

cannot justify the impugned order of cancellation of offers of appointment by additional reasons given in the affidavit in reply. Mr. Lotlikar, submitted that the government must stand or fall on the basis of the reasons given in the impugned order and the reasons given in the affidavit cannot be considered to support the impugned order. Learned Advocate General on the contrary submits that in addition to the grounds in the impugned order Government is also entitled to rely upon the original record and if the original record spells out any illegality then the impugned order cannot be questioned. The Division Bench of the Apex Court in the case of Gordhandas Bhanji (supra) held that public orders, publicly made, in exercise of statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant or of what was in his mind or what he intended to do. The Division Bench further held that public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself. This decision was followed by another Division Bench in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others,

9. The Division Bench of the Apex Court in the case of Shri Sachidanand Pandey (supra) has distinguished its earlier decisions in Gordhandas Bhanji (supra) and Mohinder Gill (supra) and observed that Mohinder Singh Gill's case was dealing with statutory order made by statutory functionary who could not, therefore, be allowed to supplement the grounds of his order by later explanations. The Apex Court further observed that principles of Mohinder Singh Gill's case have no application where neither a statutory function nor a statutory functionary is involved but the transaction bears a commercial though a public character which can only be settled after protracted discussion, clarification and consultation with all interested persons.

10. The Division Bench of the Apex Court in the case of Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, considered Mohinder Singh Gill's case and held that when an order is passed by a statutory authority, the same must be supported either by the reasons stated therein or the grounds available there for in the record. The statutory authority cannot be permitted to support its order relying on the basis of statements made in the affidavit dehors the order or for that matter dehors the records. This decision of the Apex Court is followed by the Division Bench of this Court in Writ Petition No. 7/2014 on which Mr. Lotlikar, learned counsel also placed reliance.

11. Faced with the above proposition of law, Mr. Lotlikar learned Senior Counsel accepted that the impugned order can be supported either by reasons mentioned therein or on the basis of the original record. Mr. Lotlikar, however, positively ascertained that the selection of the candidates was done by selection committee duly constituted under the Rules, the vacancies are legally diverted from one category to another category, and select list is approved by the Government. Mr.

Lotlikar insisted that the Government should produce the original record. Accordingly, on 9.4.2014 direction was given to learned Advocate General to produce original records. On 10.7.2014, the learned Advocate General produced original records for our perusal.

12. Perusal of the original records disclosed following things:-

(i) advertisement for the post of commercial tax inspector was issued on 12.1.2011 and the same was thereafter published in local newspaper on 14.1.2011.

There are absolutely no file notings available as to what transpired prior to 12.1.2011. It is thus clear that the advertisement was issued without there being corresponding noting to that effect, which indicate that file was never moved to government before issuance of this advertisement.

(ii) In all, 21 vacancies were advertised in the said advertisement, when actually, only 13 clear vacancies were available to be filled up by Direct Recruitment method.

(iii) For the first time file came to be moved by the Commissioner of Commercial Taxes to the Government on 20.10.2011 that is much after the holding of written test on 26.6.2011.

The file was moved for diversion of vacancies from promotion quota to direct recruitment as well as amendment of the relevant Recruitment Rules.

(iv) File was thereafter put up before Finance Secretary who endorsed that proposal may be examined and marked it to Joint Secretary Finance.

(v) Thereafter file was referred by Joint Secretary Finance to the Joint Secretary (Personnel). Thereafter Joint Secretary (Personnel) referred it to Under Secretary (Personnel)

(vi) Senior Assistant from the Personal Department after making a note referred it to Section Officer who in turn returned it to under Secretary (Personnel-I) and who thereafter referred it to Joint Secretary(Personnel).

(vii) The Joint Secretary (Personnel) referred it to Joint Secretary Finance (R & C) without referring it to the Chief Secretary who is concerned Secretary (Personnel), as far as Personnel Department is concerned.

(viii) He in turn referred the file to the Secretary Finance who in turn referred it to then finance Minister who happened to be the Chief Minister.

Perusal of the above file notings would therefore reveal that the proposal for diversion of vacancies were never approved by the Personnel Department. As a matter of fact the file was not referred to Chief Secretary who happened to be Secretary for Personnel Department. Nor was it referred to Ministry for Personnel. Though file was referred to the Chief Minister, the same was referred in the capacity of finance minister. Thus, it is evident that the diversion of

vacancies from promotional quota to direct recruitment was never approved by the Personnel Department.

13. At this stage let us examine the provisions of Recruitment Rules, as well as Government of Goa (Allocation) Rules, 1987. So far as the post of commercial tax inspector is concerned, under the Recruitment Rules 75% of the posts are to be filled by promotion and 25% of the posts are to be filled by direct recruitment. Under Rule 5, where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons. In terms of the Government of Goa (Allocation) Rules 1987, Ministers have been allocated particular Department. In terms of Rule 5 of the said rules, each Department is headed by the Secretary and in case of Personnel Department it is the Chief Secretary. In terms of entry 8(IV) of the said Rules, Finance(Revenue and Control Division) have been allocated the work enumerated therein. However, issues as regards service is not the subject matter covered therein which aspect is covered under entry 28 which deals with Personnel Department. Clauses a, c, g, I, t of the said entry 28 reads as under:-

(a) Cadre Planning and management of various state services, not otherwise provided for under any other Department.

(c) Policy regarding appointments, placements, etc.

(g) Promotions Systems, Institutionalizing arrangements for selection at senior/ management levels.

(I) Recruitment and conditions of service and framing of rules and regulations in matters thereto.

(t) Advise in service matters.

Thus all the matters pertaining to the service comes under the domain and purview of the Personnel Department and diversion of vacancies cannot be considered as legal so long as the Personnel Department does not approve of the same.

14. The facts stated hereinabove make following things unequivocally clear:-

(a) without their being any authority from the Government, Commissioner of Commercial taxes invited application for 21 vacancies when in fact there was only 13 vacancies.

(b) In terms of Recruitment Rules 21 posts were allotted to the Commercial Tax Inspector from the quota of direct recruitment.

(c) Diversion of the vacancies of promotional quota to direct recruitment was never approved by Personnel Department which was competent to do so.

15. Government of Goa, in exercise of powers conferred under clauses 2 and 3 of Article 166 of the Constitution of India, has framed Rules of Business of the

Government of Goa, 1991. Business of the Goa Government has to be transacted in accordance with these rules. In terms of Rule 6 sub rule 2, the minister in charge of the Department is primarily responsible for the disposal of business of that Department.

Rule 46 of the said rules reads as under:-

The Chief Secretary and the Secretary of the Department concerned, are severally responsible for the careful observance of these rules and when either of them considers that there has been any material departure from them, he shall personally bring it to the notice of the Minister in charge, the Chief Minister and the Governor.

In the present case, neither the file was referred to the Chief Secretary who was the concerned secretary nor was it cleared by the Minister for Personnel Department. There was no diversion of vacancies, therefore, entire selection was illegal and in violation of Rules of business. That apart, file for alleged diversion was moved in the month of October, 2011 that is much after written examination was conducted. As on date of advertisement there were only 13 vacancies by way of direct recruits available. Advertisement itself therefore, was illegal as vacancies therein were much in excess of the clear vacancies available as on that date.

16. Mr. Lotlikar, learned Senior Counsel positively ascertained by making statement on affidavit that the selection list was approved by the Government and only thereafter letters of appointment were issued to appointed candidates. There was no denial to this statement in affidavit in reply. However, learned Advocate General during the course of arguments vehemently asserted that the Government did not approve the said select list. Learned Advocate General thereafter at the instance of Mr. Lotlikar, learned Senior Counsel was directed to produce original records. We examined the original records to see whether selection/select list was approved by the Government. Having perused the records, we find nothing in the original file with reference to the approval of the select list, which in our opinion supports the contention of the learned Advocate General that select list was never approved by the Government. There is one more circumstance to conclude that the select list must have not been approved by the Government and that is the fact that the letters offering the appointment were sent on the very same day i.e. on 23.12.2011 on which date examination results was declared. In the above facts and circumstances, in our view, the only conclusion that can be arrived at is that the select list was prepared and offer letters were issued to the candidates contrary to the Recruitment Rules, Rules of Business of the Government of Goa, 1991 and Government of Goa (Allocation) Rules, 1987. Thus, the entire select list is illegal and vitiated.

17. This takes us to consider the decisions of the Apex Court and the High Courts relied upon by the respective counsel.

(i). Mr. Lotlikar, learned senior counsel in order to contend that there is

concluded contract between the Government and the respective petitioners in view of the acceptance of offer of appointment heavily relies upon the decisions in Dinesh Chandra Sangma (supra) and Pralhad Ramachandrarao (supra). Mr. Nadkarni, learned Advocate General on the contrary relied upon the decision in case of Tagin Litin (supra) in this regard. In Dinesh Chandra Sangma (supra), the Apex Court held that except in the case of a person who has been appointed under a written contract, employment under the Government is a matter of status and not of contract even though it may be said to have started, initially, by a contract in the sense that the offer of appointment is accepted by the employee. This decision does not come to the petitioners rescue at all.

The Division Bench of this Court in the case of Pralhad (supra) in the fact of that case held that there was concluded contract between the university and the petitioner therein. The ratio of this decision cannot come to the petitioners rescue inasmuch as Executive Council had accepted the recommendation of the Selection committee and offered the post to the petitioner therein. In the present case, the selection list was never approved by the Government. In addition to this, it was not the case where selection process was vitiated.

The Apex Court in Tagin Litin (supra) held that an appointment to a post or office postulates:-

- (a) A decision by the competent authority to appoint a particular person;
- (b) Incorporation of the said decision in an order of appointment; and
- (c) Communication of the order of appointment to the person who is being appointed.

The Apex Court further observed that all the above three requirements must be fulfilled for an appointment to be effective. Thus competent authority must take decision to appoint a particular person, the said decision must be incorporated in an order of appointment and/or appointment must be communicated to the person who has been appointed. In the present case, what was communicated to the petitioners was only offer of appointment and not the order of appointment. Communication of offer of appointment was also not with the approval of the competent authority. In these circumstances, argument of Mr. Lotlikar, learned Senior counsel that there has been concluded contract is devoid of any merits and cannot be accepted.

(ii) The submission of Mr. Lotlikar, learned senior counsel that the action of the Government in cancelling offer of appointment is without complying with the principles of natural justice, also cannot be accepted in the light of the decision of the Apex Court in the case of Rati Pal Saroj (supra). The Apex Court in this case was considering the applicability of the principles of natural justice to cancellation/withdrawal of the appointment. In the facts of that case, the Apex Court held that cancellation of offer of appointment without affording an opportunity is valid. The Apex Court held that so long as the decision is taken

bona fide on the relevant facts and in the interest of service it cannot be faulted. In this case, respondent had entered into a criminal conspiracy with certain others, pursuant to which his original written answer papers in the Civil Services examination had been removed and substituted by other ones. In the present case also we have concluded that entire selection process is vitiated. Thus, ratio of this decision is applicable to the facts and circumstances of the case.

(iii) The decision of this Court rendered on 7.5.2014 in Writ Petition No. 7/2014 cannot be made applicable to this case. In this case, the petitioner was selected after due procedure and he was also given appointment order unlike the present case where select list and offer of appointment was found vitiated. Therefore, ratio of this decision is not applicable to the present case.

(iv) Mr. Lotlikar, learned Senior Counsel relied upon the decision in Writ Petition No. 78/2013 and especially observation made in para 6(a) thereof. The Division Bench in this para relying upon the decision of Jitendra Kumar (supra) observed that a selectee as such has no legal right to appointment just because his name appears in the select list. It was also observed that the contract of employment would come into force only when the offer made by the applicant is accepted by the State by virtue of an order of appointment. This observation will not come to the petitioners rescue inasmuch as in the present case appointment letters were never issued to the petitioners.

(v) Reference must be made to the decision of the Apex Court in the case of Jitendra Kumar (supra). The facts of this case and the facts of the case in hand are more or less similar. The Apex Court after making survey of various decisions held that selectees do not have any legal right of appointment subject, inter alia, to bona fide action on the part of the State. The Apex Court observed that since selectee has no legal right, the Superior Court in exercise of its judicial review would not ordinarily direct issuance of any writ in the absence of any pleadings and proof of mala fide or arbitrariness on its part.

The Division Bench relying upon Ashok Kumar and Others Vs. Chairman, Banking Service Recruitment Board and Others, held that no appointments can be made beyond the post advertised for. The observation made by the Division Bench in Paragraph 57 is as follows:-

Whereas, on the one hand, an action on the part of the State to interfere with the good work done by the previous Government solely on the basis of change in the regime must be deprecated, there cannot however be any doubt whatsoever that the successor Government cannot blink over the illegalities committed by the previous Government. If illegalities have been committed, the same should be rectified. When there exists a reasonable apprehension in the mind of the State, having regard to the overall situation including the post-haste manner in which actions had been taken, to cause an enquiry to be made and suspend the process of making appointments till the result of such enquiry is obtained, such a decision on its part per se cannot be said to be an act of arbitrariness or

unreasonableness.

The Apex Court ultimately held that the bona fide decision taken by the Government ought not to be interfered with. The ratio of this decision, in our view, is preferably applicable to the facts and circumstances of the present case.

(vi) In case of Subhas Kumar Chatterjee (supra), the Apex Court made following observation in paragraph 30:-

Yet another question that arises for our consideration is whether a writ of mandamus lies compelling the State to act contrary to law? The State Government having accepted the recommendations of the successive Pay Commissions gave effect to those recommendations by framing statutory rules being ROPA Rules and scales of the employees have been accordingly fixed. The respondents did not challenge the virus of the said Rules under which they were entitled to only a particular scale of pay. The State Government is under obligation to follow the statutory rules and give only such pay scales as are prescribed under the statutory provisions. Neither the Government can act contrary to the rules nor the Court can direct the Government to act contrary to rules. No Mandamus lies for issuing directions to a Government to refrain from enforcing a provision of law. No court can issue Mandamus directing the authorities to act in contravention of the rules as it would amount to compelling the authorities to violate law. Such directions may result in destruction of rule of law.

Perusal of the observation makes it abundantly clear that the mandamus cannot be issued to the authority to act in contravention of the Rules. Since we have found that entire selection process is contrary to the Recruitment Rules, Rules of Business of the Government of Goa, 1991 and Government of Goa (Allocation) Rules, 1987, reliefs claimed by the petitioners in the present case, cannot be granted.

(vii) In Bhupendra Nath Hazarika (supra), the Division Bench of the Apex Court held that where the recruitment is regulated by statutory rules, recruitment must be in accordance with the rules. Any appointment dehors the rules would be illegal and such appointees have to be put in different class and cannot claim seniority even when their appointment is later regularised. The Apex Court further held that whether any active part is played by a selectee or not has nothing to do with the appointment made in contravention of the Rules. The ratio of this decision is preferably applicable to the facts and circumstances of the case. In the present case also selection process is vitiated as same is completed dehors of the recruitment rules. Letters of offer of appointment are unsustainable irrespective of the fact whether the petitioners have played any active part or not.

18. Before parting with these judgments we must refer to the arguments made by Mr. Lotlikar, in rejoinder. He submits that the advertisement was issued to fill up 21 posts of Commercial Tax Inspector. However, 45 candidates were selected and offer of appointment letters were issued. He submitted that if 45 vacancies

are not there, in that case selected list can be segregated and 21 meritorious candidates can be appointed to the post of Commercial Tax Inspector. In this regard, he relied upon following decisions.

1. Prem Singh and Others Vs. Haryana State Electricity Board and Others,
2. Union of India (UOI) and Others Vs. Rajesh P.U., Puthuvalnikathu and Another,
3. Inderpreet Singh Kahlon and Others Vs. State of Punjab and Others,
4. East Coast Railway and Another Vs. Mahadev Appa Rao and Others,
5. Girjesh Shrivastava and Others Vs. State of M.P. and Others,
6. Bhavikkumar Shriramji Tandale and Others Vs. State of Maharashtra, The Dean and Chairman Selection Committee Govt. Ayurvedic College and Hospital and Director of Ayurvedic,
7. Mr. Richard John Lawrence Fernandes v/s. The Deputy Director of Administration and others [W.P. No. 319 of 2007]

19. We have perused the above decisions of the Apex Court. Having perused the said decisions, we find that same have no application to the facts of the present case in the light of conclusions arrived at by us namely that the offers of appointment are illegal and entire selection process is vitiated, as it is contrary to the Recruitment Rules, Rules of Business of the Government of Goa, 1991 and Government of Goa (Allocation) Rules, 1987 and select list was not approved by the Government.

20. Taking totality of the facts and circumstances of the case, we find no merit in the petitions. Petitions accordingly, stand dismissed.