
(1995) 02 GAU CK 0002
In the Gauhati High Court
Case No : Writ Appeal No. 115 of 1994

State of Assam

APPELLANT

Vs

Prosen Kumar Roy and Ors.

RESPONDENT

Date of Decision : 06-02-1995

Acts Referred:

Citation : (1995) 1 GLJ 258 : (1995) 2 GLT 282

Hon'ble Judges : V.K.Khanna, C.J. and B.N.Singh Neelam, J

Bench : Division Bench

Advocate : H.Rahman, D.P.Chaliha, Advocates appearing for Parties

Judgement

VK Khanna, CJ.

1. This appeal has been filed against the judgment of the learned Single Judge dated 30.8.93 passed in PSC. Case No, 473 of 1993 arising out of Civil Rule No.746 of 1991 and also against the decision of the learned Single Judge dated 10.2.93 in Civil Rule No. 746 of 1991, Civil Rule No. 1086 of 1991, Civil Rule No. 1946 of 1991, Civil Rule No. 1403 of 1991 and Civil Rule No. 1837 of 1991, contained in Annexure A to the writ appeal.

2. We have heard Mr. DP Chaliha, learned Government Advocate appearing for the State of Assam and Mr. H. Rahman, learned counsel appearing for the contesting respondents.

3. The brief facts for the purpose of adjudicating the present appeal are that an advertisement was made for recruitment to the posts of Lower Division Assistants in Assam in various State Government Departments. The contesting respondents also applied and were duly selected to be placed in the select list dated 12.8.88. It has not been disputed that the period of validity of the aforesaid select list was for a period of one year. The life of the aforesaid select list was extended by the various Government orders upto 16.2.91. Civil Rule No. 8984 of 1991 was filed by some of the candidates whose names appeared in the select list for being appointed to the post of Lower Division Assistants on the

ground that the select list, even after 16.2.91 was in existence and they were entitled to get appointment as there were vacant posts to be filled up. The Division Bench, however, finally adjudicated the aforesaid matter and held that the contentions of petitioners in Civil Rule No. 898 of 1991, if are upheld, Same would be unjust and hit by Article 14 of the Constitution. The writ petition filed by those petitioners was, therefore, rejected.

4. Another set of Civil Rules, namely, Civil Rule Nos.746 of 1991,1086 of 1991, 1403 of 1991, 1837 of 1991 and 1946 of 1991 were filed by a large number of persons whose names were appearing in the select list and the learned Single Judge disposed of the aforesaid five Civil Rules by a common judgment by giving final directions. The directions are contained in paragraphs (i), (ii) and (iii) which are as follows :

Prepared on 12.8.88. Hie respondent will, therefore, get the matter examined again preferably within a period of one month from the date of receipt of this order. Anyone of the petitioners/contesting respondents shall appear before the Secretary to the a

Government of Assam, Personnel (B) Department along with a certified copy of this order and will present the same to the Secretary who shall accept the same. The Secretary, Personnel (B) Department either himself or through a competent authority will examine the matter and he will also find out the total number of vacancies to be filled up by the candidates whose names were appearing in the select list prepared on 12.8.88. In case such posts have not been filled up by those candidates whose names were appearing in the select list, those posts will now be filled up from the select list of the candidates according to merit.

8. It is however, made clear that the petitioners/respondents on the basis of the select list prepared on 12.8,88 will have no right over the vacancies arising after 16.2.91. Any vacancy which has fallen vacant after 16.2.91 has to be filled up in accordance with law by preparing a fresh select list so as to be in accordance with the provisions of Articles 14, 16 and 21 of the Constitution. We expect the preparation of select list by the competent authority within a reasonable period.

9. As far as the power of extension of the life of the select list prepared is concerned, the aforesaid power will be exercised on some reasonable ground. It is not expected that the power will be mechanically exercised as it is evident from the present case.

10. In this case the validity of the select list is only one year. The life of the select list can be extended sparingly only on valid reason when the preparation of a fresh select list is for some reason impossible.

11. Subject to the aforesaid observations, the present writ appeal is finally disposed of. After looking into the entire judgment finally disposed of by the Division Bench, the judgments of the Single Bench are modified to the extent indicated above. However, looking to the entire facts and circumstances of the

case, the parties shall bear their own costs.