
(2017) 07 GAU CK 0003
In the Gauhati High Court
Case No : 2642 of 2011

Sushanta Basumatary and others

APPELLANT

Vs

The State of Assam and others

RESPONDENT

Date of Decision : 10-07-2017

Acts Referred:

Citation : (2017) 07 GAU CK 0003

Hon'ble Judges : A.M. Bujor Barua

Bench : SINGLE BENCH

Advocate : P. Mahanta, R.B. Bora, D.P. Borah

Judgement

1. Heard Mr. P. Mahanta, learned counsel for the petitioners, Ms. R.B. Bora, learned counsel appearing for the BTC being the respondent Nos. 2 and 5 and Mr. D.P. Borah, learned Standing Counsel for the Health Department being the respondent Nos. 1, 3 and 4. Although the candidates, who were appointed pursuant to the impugned selection have also been impleaded as respondent Nos. 6 to 12 by a subsequent order of this Court, but in view of the order that is proposed to be passed today, this Court is of the view that the said respondents need not be heard for the present.

2. The petitioner No.1 having obtained the diploma in Laboratory Technology from the Institute of Medical and Paramedical Science, Silchar in the year 2000, the petitioner No.2 having obtained the diploma in Laboratory Technology from the North East Medical and Paramedical College, a unit of Humanities Research Development (Government of Assam), located in the Training Campus at Kokrajhar, Assam in the year 2008 and the petitioner No.3 having obtained one year diploma course in Laboratory Technology in the year 2003, had participated in a selection process pursuant to an advertisement dated 13.11.2009 issued by the Central Selection Board of the BTC authorities.

3. On a perusal of the said advertisement of 13.11.2009, it is seen that the minimum educational qualification is a certificate of Laboratory Technician

Training Course from Government recognized institute of Assam. The petitioners duly participated in the said selection process pursuant to the advertisement of 13.11.2009 and the results were declared as per the Annexure-F dated 11.11.2010. As per the said result, in respect of the posts in the category of Laboratory Technician, which is 12 in number, the petitioner No.1 bearing Roll No.178, the petitioner No.2 bearing Roll No.76 and the petitioner No.3 bearing Roll No.29, were declared to have been selected.

4. The petitioners are aggrieved that although they were selected as per the said result declared on 11.11.2010, but no appointments were made in their favour. On the other hand, the respondent authorities had issued another advertisement published in the newspaper "The Assam Tribune" dated 09.02.2011, which also advertised for certain posts of Laboratory Technician. The result of the subsequent selection procedure pursuant to the advertisement of 09.02.2011 was declared in the result sheet dated 28.12.2011, which was published in the newspaper "Dainik Agradoot" dated 02.03.2011. As per the said result, certain other persons were selected for six posts of Laboratory Technician.

5. It is the case of the petitioners that although they were selected pursuant to the earlier advertisement, but their selection was abandoned and the respondent authorities by issuing the subsequent advertisement had proceeded to appoint the respondent Nos. 6 to 12.

6. The BTC authorities had filed an affidavit in opposition dated 29.06.2011, wherein in paragraph-4, it had been stated that pursuant to the earlier advertisement of 13.11.2009, five candidates were appointed, but the other candidates whose name also appeared in the select list were not appointed inasmuch as, the said candidates did not have a certificate of Laboratory Technician Training Course from a Government recognized institute of Assam. It is stated that pursuant to the earlier selection, the five candidates who had been appointed, had the required certificate, but the other selected candidates, like the petitioners did not have the concerned certificate of Laboratory Technician Training Course from a Government recognized institute of Assam.

7. In paragraph-6 of the affidavit in opposition, the respondent BTC authorities also takes a stand that the certificate of Laboratory Technician Training Course from a Government recognized institute of Assam is mandatory as per the directions issued by the Government of Assam pursuant to a decision of this Court in WP(C) No.3274/1995.

8. On a perusal of the materials on record, it is seen that the petitioners had obtained their certificates of Laboratory Technician Training Course from institutes, which are other than recognized institutes of the State of Assam. In such view of the matter, no infirmity can be found in not appointing the petitioners pursuant to the earlier selection inasmuch as, they do not have the required qualification as per the advertisement dated 13.11.2009.

9. In such view of the matter, no interference is also required in the in the

selection of the respondent Nos. 6 to 12, who were appointed after a due selection pursuant to the subsequent advertisement dated 09.02.2011.

10. In such view of the matter, this writ petition is found to be devoid of any merit.

11. However, at the stage, Mr. P. Mahanta, learned counsel for the petitioners makes a prayer that if the respondent authorities intend to take a lenient view on the same, the cases of the petitioners for appointment may also be considered accordingly.

12. In such view of the matter, by making it clear that it is not a specific direction of this Court, it is provided that it is left open to the discretion of the respondent authorities to give a lenient consideration to the petitioners, as prayed for, in the event the respondent authorities desire to do so. In terms of the above, this writ petition stands closed.