

(1999) 09 GAU CK 0015

In the Gauhati High Court

Case No : Writ Appeal No's. 163, 164 and 165 of 1999

Ziaur Rahman and Others

APPELLANT

Vs

National Airport Authority and Others

RESPONDENT

Date of Decision : 13-09-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 1 GLT 543

Hon'ble Judges : Brijesh Kumar, C.J;B. Biswas, J

Bench : Division Bench

Advocate : B.K. Sharma, U.K. Nair and D.K. Sarma, for the Appellant; K.N. Choudhury and P. Bhowmick, for the Respondent

Final Decision : Dismissed

Judgement

D. Biswas, J.—These appeals arising out of a common judgment passed in Civil Rule Nos. 1324/96, 1326/96 and 1285/96 are proposed to be disposed of by this judgment.

2. We have heard Shri B.K. Sharma, learned Counsel for the Appellants as well as Shri K.N. Choudhury, learned senior counsel for the Respondents.

3. The writ Appellants who were selected for appointment to the posts of Fire and Rescue Operator under the National Airport Authority, North Eastern Region, presently known as Airports Authority of India, were sent for basic training course at the International Airport, New Delhi. On completion of their training, they were directed to report to the Director, Airports Authority of India, Guwahati, although the Appellants completed the training course and in spite of their reporting before the Director, Airports Authority of India, Guwahati, they have not been appointed. Having failed to secure appointment even after filing of representations before the authority, they moved this Court for necessary direction for their appointment invoking powers of this Court under Article 226 of the Constitution. The learned Single Judge after hearing the parties, declined to

exercise discretionary powers and to issue direction to the Respondents to appoint the Appellants.

4. The question involved in these appeals is whether the Appellants who were provisionally selected for undergoing basic training were entitled to get regular appointment to the post of Fire and Rescue Operator before successful completion of the basic courses of fire fighting/Driving test on major and minor fire vehicles/appliances and First Aid and whether refusal by the Respondents to appoint them amounted to violation of legal rights enforceable in law.

5. Shri B.K. Sharma, learned Counsel for the Appellants argued vehemently that the earlier practice of the Respondents were to select and appoint the candidates and then to send them for training. In the event of failure, they were given three chances to qualify in the courses mentioned above. But this was not the position when the Appellants were selected. They were selected for undergoing the courses after the new recruitment policy came into operation in 1992. The National Air port Authority, by its letter dated 6th April, 1992, laid down the policy relating to the recruitment of Fire and Rescue Operators. Paragraphs 3 and 4 of the aforesaid letter embodying policy relevant for the purpose of disposal of the appeals are quoted below:

3. Selected candidates will be required to undergo six months basic training course at Fire Service Training Centre in the following trainings successfully before regular appointment to the post of Fire & Rescue Operators are made:

(i) Basic Course of fire fighting

(ii) Driving training on major and minor fire vehicles/appliances,

(iii) First Aid training.

4. During the training period a stipend of Rs. 950/- p.m. will be paid to them. The candidates shall have to furnish indemnity bond before joining the training centre. On successful completion of basic training, the candidates will be absorbed as Fire & Rescue Operators in the prescribed scale of Rs. 950-1500.

6. It would appear that the selection of the candidates for the aforesaid post is subject to their successful completion of the training in three streams as mentioned in the said letter. The appointment orders would follow if the selected candidates successfully come out of the above training courses. During the course of training, the candidates are to be paid stipend at the rate of Rs. 950/- per month and on successful completion of the training they would be absorbed in the prescribed scale of pay. This being the position, we are unable to agree with Shri Sharma that the Appellants would be governed by the policy that existed prior to 1992. The policy banked upon ceased to exist with effect from 6th April, 1992 when the National Airport Authority laid down the new recruitment policy.

7. From the pleadings on record we find that the Appellants, except Shri Bhupen

Chandra Das, failed in Group-H of the training course. Therefore, non-appointment of other Appellants, namely, Md. Ziaur Rahman and Md. Musleuddin Ahmed does not appear to be inconsistent with the policy of appointment in force. The Appellant (in W.A. 164/99) stands on a different footing. There was an inadvertent mistake, as submitted by Shri K.N. Choudhury, in evaluating and assessing his marks. Shri B.C. Das who had qualified in the driving test ought to have been given a second chance for completing the training courses and accordingly the Respondents have decided to afford an opportunity to him to complete the courses. In this connection it will be relevant to mention here that this Court in Misc. Case No. 136/99 made it clear that the pendency of the appeal would not operate as a bar for deputing the Appellant Shri B.C. Das for basic training course. The irregularity, if any, having thus been removed, we find that the appeal filed by Shri B.C. Das has become redundant. So far as the appeals of Shri Ziaur Rahman and Shri Musleuddin Ahmed are concerned, no such mistake in evaluating their performance in the training is apparent.

8. Shri B.K. Sharma, learned Counsel relying on a letter written on 21st June, 1993 submitted that a decision was taken to give an opportunity to the candidates who have failed in the written and/or oral examination after completing 3 months" training to reappear in the training i.e. written or oral test. From this letter we further find that the candidates who failed in the driving light vehicle/practical tests will not be given this opportunity.

9. In the instant case, the Appellant Shri Ahmed and Shri Rahman have failed in the driving test. Shri Sarma submitted that the decision conveyed in the letter dated 21st June, 1993 cannot have retrospective effect. But, accordingly to us, this letter conveys the decision of the authority to afford an opportunity to certain categories of candidates. If the Appellants fall within those categories, certainly they will be aggrieved if not given the opportunity of another chance to appear in the written or oral test. The policy laid down by the said letter is not in conflict with the recruitment policy of 1992. This decision to give a fresh chance to a specified class of employees does not appear to be inconsistent with any provision of the policy laid down by the authority. Shri Sharma, learned Counsel also made a grievance that certain persons have been appointed without being sent for training. This allegation is made in the additional affidavit submitted by the Appellants. The allegation has been denied by the Respondents. Shri Choudhury, learned Counsel for the Respondents submitted that the appointments were made prior to the introduction of the new policy and denied appointment in violation of the policy. What ever it may be, in the appeals at hand we are to examine the grievance of the Appellants in the light of the appointment policy laid down by the Respondent authority. Refusal of appointment to the Appellants in writ appeal No. 163/99 and Writ Appeal No. 165/99 does not appear to be in violation of the policy and other terms and conditions prescribed in the letter dated 6th April, 1992. We, therefore, find no justification to interfere with the judgment appealed against. The appeals being devoid of merit, stand dismissed. No order as to costs.