

GAHC010014332023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/339/2023

KAUSHIK SAIKIA
S/O- JITEN SAIKIA,
R/O- RUPAK NAGAR,
WEST HAZARAPAR,
P.O AND P.S- TEZPUR,
DIST- SONITPUR, ASSAM, PIN-784001

VERSUS

THE ASSAM PUBLIC SERVICE COMMISSION AND 4 ORS
APSC BHAWAN, JAWAHAR NAGAR, KHANAPARA, GUWAHATI-22.
REP. BY ITS SECRETARY,

2:THE SECRETARY

ASSAM PUBLIC SERVICE COMMISSION

APSC BHAWAN

JAWAHAR NAGAR
KHANAPARA
GUWAHATI-22.

3:THE CONTROLLER
ASSAM PUBLIC SERVICE COMMISSION
APSC BHAWAN
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-22.

4:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM

TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-06

5:THE COMMISSIONER OF TRANSPORT
ASSAM
PARIBAHAN BHAWAN

JAWAHAR NAGAR
KHANAPARA
GUWAHATI-22

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent : SC, APSC

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 01/02/2023

Heard Mr. R.P. Sarmah, learned senior counsel assisted by Mr. D. Doley, learned counsel for the writ petitioner. Also heard Mr. T.J. Mahanta, learned senior counsel assisted by Mr. P.P. Dutta, learned Standing Counsel, APSC, appearing for the respondent nos. 1, 2 & 3 and Ms. M. D. Bora, learned Standing Counsel, Transport Department, Assam, appearing for the respondent nos. 4 and 5.

The Under Secretary to the Assam Public Service Commission (APSC) had issued an advertisement on 25/05/2022 for recruitment to the post of Motor Vehicle Inspector (MVI) in the pay scale of Rs. 22,000/- to Rs. 97,000/- plus Grade Pay of Rs. 9400/- in PB-3. The educational qualification required for the post was HSLC/HSSLC with 3 (three) years Diploma in Automobile and Mechanical Engineer from a recognized Institution of the Government of Assam/Government of India and also duly recognized by the AICTE.

The petitioner herein has done 5(five) years M. Tech course in Energy Engineering after his HSSLC. He had applied for the post of MVI. According to the APSC, the petitioner does not meet the

educational qualification as prescribed by the advertisement notice dated 25/05/2022. Notwithstanding the same, he was provisionally allowed to participate in the Screening Test. Subsequently, it transpired that the petitioner had failed to qualify in the Screening Test. Contending that the petitioner neither has the requisite educational qualification as per the advertisement notice nor has he cleared the Screening Test, the APSC has filed an affidavit urging that there is no scope for considering the case of the writ petitioner.

Mr. Sarmah, learned senior counsel for the petitioner, on the other hand, submits that the course of M. Tech in Energy Engineering pursued by the petitioner has a component of Mechanical and Electrical Engineering and, therefore, the petitioner should be treated to have the requisite qualification as per prescription in the advertisement notice. Learned counsel for the petitioner further submits that his client be provisionally permitted to take part in the interview which is scheduled to be held on 01/02/2023, 02/02/2023 and 03/02/2023 which would be subject to the outcome of the writ petition.

I have considered the submissions advanced by learned counsel for both the sides and have also gone through the materials available on record.

In so far as the educational qualification of the petitioner is concerned, as noted above, the requirement is clearly prescribed by the advertisement notice, according to which, a Three years Diploma in Automobile and Mechanical Engineering is what is required. It is the admitted position of fact that the petitioner does not possess a diploma either in Automobile Engineering or Mechanical Engineering. Whether the course of M. Tech in Energy Engineering includes subjects of Mechanical Engineering and Electrical Engineering to the extent indicated in the writ petition is correct or not, and if so, whether it can be treated as a substitute for 3 years diploma in Automobile and Mechanical Engineering are matters for the academic experts to decide and this Court does not have the requisite expertise to go into the said aspect of the matter. Suffice it to mention herein that by the own

showing of the petitioner, he does not have a 3 years Diploma in Automobile Engineering and Mechanical Engineering. Therefore, it is apparent that the petitioner does not fulfill the educational qualification criteria laid down in the advertisement notice dated 25/05/2022.

This Court is conscious of the fact that the petitioner has higher qualification than what has been prescribed in the advertisement notice dated 25/05/2022 in so far as value of his degree is concerned and he must also be looking for a suitable employment so as to support himself. However, what is to be borne in mind is that a Writ of Mandamus cannot be issued by this Court to accept the candidature of the petitioner, if he does not fulfill the educational qualification criteria prescribed by the advertisement notice. Such a direction would not only be contrary to the scheme of the advertisement notice but would also cause enormous prejudice to the other similarly situated candidates, who might not have applied for the said post because of non-fulfillment of the criteria of educational qualification.

Over and above the aforesaid position, it is also clear from the materials available on record that the petitioner did not qualify in the "Screening Test". The said assertion of the APSC has not been rebutted by the petitioner by filing rejoinder affidavit. If that be so, viewed from that angle also, no interim Mandamus can be issued in this case directing the respondents to permit the petitioner to provisionally take part in the interview, as such a recourse would be an entirely futile exercise.

For the reasons stated herein above, this writ petition is held to be devoid of merit and is accordingly dismissed.

JUDGE

sukhamay

Comparing Assistant