

GAHC010020682023



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

Case No. : WP(C)/548/2023

AZIMUDDIN KHAN
S/O- MD. BADRUDDIN KHAN, R/O- QUARTER NO. B-20, GUWAHATI
AIRPORT COLONY, P.S.- AZARA, P.O. GUWAHATI AIRPORT (ASSAM), DIST.-
KAMRUP, ASSAM, PIN- 781015

VERSUS

THE AIRPORTS AUTHORITY OF INDIA AND 9 ORS.
REP. BY REGIONAL EXECUTIVE DIRECTOR, AIRPORTS AUTHORITY OF
INDIA REGIONAL HEAD QUARTER, NORTH EAST REGION, LOKAPRIYA
GOPINATH BORDOLOI INTERNATIONAL AIRPORT, GUWAHATI

2:THE REGIONAL EXECUTIVE DIRECTOR
AIRPORTS AUTHORITY OF INDIA
REGIONAL HEAD QUARTER
NORTH EAST REGION
LOKAPRIYA GOPINATH BORDOLOI INTERNATIONAL AIRPORT
GUWAHATI

3:THE CHAIRMAN
AIRPORTS AUTHORITY OF INDIA
RG BHAWAN
SAFDARJUNG AIRPORT
NEW DELHI- 110003

4:THE GENERAL MANAGER (HR)
REGIONAL HEAD QUARTER
NORTH EAST REGION
LOKAPRIYA GOPINATH BORDOLOI INTERNATIONAL AIRPORT
GUWAHATI

5:THE ASSTT. GENERAL MANAGER (HR)
NORTH EASTERN REGION

6:THE AIRPORT DIRECTOR
AIRPORTS AUTHORITY OF INDIA
LOKAPRIYA GOPINATH BORDOLOI INTERNATIONAL AIRPORT
GUWAHATI

7:JOINT GENERAL MANAGER (ATM)
OFFICE OFFICER-IN-CHARGE
AIRPORTS AUTHORITY OF INDIA
LOKAPRIYA GOPINATH BORDOLOI INTERNATIONAL AIRPORT
GUWAHATI

8:THE AIRPORT CONTROLLER
AIRPORTS AUTHORITY OF INDIA
DIBRUGARH AIRPORT

9:KAMEI PREMKUMAR KABUI
SENIOR ASSISTANT (MTD)
AIRPORTS AUTHORITY OF INDIA
IMPHAL AIRPORT
MANIPUR
PIN- 795140

10:NIRANJAN TALUKDAR
ASSISTANT FIRE SERVICE
OFFICE OF THE GENERAL MANAGER ENGINEERING (CIVIL)
HOLONGI AIRPORT
AIRPORTS AUTHORITY OF INDIA
HOLONGI
PIN- 79112

Advocate for the Petitioner : A N HUSSAIN

Advocate for the Respondent : SC, A A I

BEFORE
HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

For the Petitioner : Shri S Banik, Advocate.

For the Respondents : Shri R Dubey, Advocate.

Date of Hearing : 15.09.2023.

Date of Judgment : 15.09.2023.

15.09.2023.

Judgment & Order

Heard Shri S Banik, learned counsel for the petitioner. Also heard Shri R Dubey, learned Standing Counsel, Airport Authority of India.

2. The issue involved is a promotional exercise for filling up vacancies in the Grade of Senior Assistant (NE-6 Level) through a Departmental Examination and in this regard, a circular was published on 03.02.2022 notifying 5 nos. of posts of Senior Assistant (Operations). The said circular had also indicated the educational qualification and experience.

3. It is the case of the petitioner that he having fulfilled the eligibility criteria had offered his candidature. However, since no intimation was made available, he had made a representation. After a certain period, the petitioner could learn that certain candidates were short listed for the said Departmental Examination.

4. Shri Banik, learned counsel for the petitioner has submitted that though promotion may not be a matter of right, a fair consideration is certainly a matter of right from which the petitioner is sought to be excluded. He submits that the petitioner was not informed by any reasons regarding rejection of his candidature in spite of the fact that he had fulfilled all the requisite criteria.

5. By drawing the attention of this Court to the affidavit-in-opposition filed by the respondent nos. 1 to 8, dated 08.08.2023, Shri Banik, learned counsel has submitted that some reasons have been cited justifying the action in paragraph 4 (i). The learned counsel, however, contends that the reasons cited are wholly irrelevant and are not tenable in law at all. He submits that the reasons cited are not in consonance with the circular in question which has laid down the criteria for such consideration. This Court has also been informed that under the directions of this Court, one post has been kept vacant in which, the case of the petitioner is liable to be directed to be considered.

6. Shri Dubey, learned Standing Counsel appearing for the respondents, at the outset, has submitted that the present exercise was carried out as an exceptional case inasmuch as the posts in question are normally to be filled up by direct recruitment and only to give an opportunity to the in-house candidates, the said posts were decided to be filled up by way of promotion and therefore, there is no right vested upon the candidates to seek such promotion. Further, he submits that the reasons for rejection are relevant as experience in the field of operation was sought for as the post in question would require a

person with such experience.

7. Shri Dubey, learned Standing Counsel, accordingly submits that no case for interference is made out and while dismissing the writ petition, the interim order is also liable to be vacated.

8. Rejoining his submission, Shri Banik, learned counsel for the petitioner has submitted that apart from the fact that the reasons cited are irrelevant and extraneous, the petitioner has also requisite experience in the field of operation and could not have been rejected even on that ground.

9. The rival submissions made by the learned counsel for the parties have been duly considered and materials placed before this Court carefully examined.

10. Though Shri Dubey, learned Standing Counsel may be correct in contending that the post in question is generally filled up by direct recruitment and only on this particular occasion, the same has been decided to be filled up by promotion, this Court is of the opinion that once the decision is taken, the respondent cannot now turn around and take a stand that no right has accrued upon a candidate for a fair consideration of his candidature. This Court is, accordingly required to examine the contention of the petitioner as to his claim for fulfilling the requisite qualification as given in the circular dated 13.07.2021.

11. The said circular has specified that the educational qualification has to be Graduate with LMV licence and there would be a preference of candidates with

diploma in Management. As regards the head of 'experience', the requirement was 2 years relevant experience in the concerned discipline. It is not in dispute that the petitioner is a Graduate having LMV licence and also has the preferred qualification of diploma in Management. The claim regarding experience is also not in dispute as the petitioner who has been substantially working in a Group-D post has the relevant experience in the concerned discipline. The learned counsel for the petitioner has also relied upon the filled up Proforma by the petitioner which was certified by the appropriate authority wherein all the required eligibility criteria were said to be fulfilled by the petitioner as on 14.07.2021.

12. Having heard the learned counsel for the parties and on perusal of the materials on record, this Court is of the opinion that there being no dispute to the fulfillment of the eligibility criteria by the petitioner *vis-a-vis* the circular dated 13.07.2021, the reasons which have been set forth in the affidavit cannot be termed to be relevant to the issue and also appears to be factually incorrect. It is seen that not only the petitioner has claimed to have fulfilled the required criteria, such claim is also certified by appropriate authority as would appear from the materials on record.

13. Under the aforesaid facts and circumstances, depriving the petitioner from a consideration for promotion to the said post cannot be termed to be a reasonable and justified action and accordingly the petitioner has made out a case for interference. Consequently, the respondents are directed to short list the petitioner and consider his case for promotion in accordance with law and the guidelines laid down in the aforesaid circular.

14. The writ petition accordingly stands allowed in the above terms.

JUDGE

Comparing Assistant