

GAHC010026992023



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

Case No. : WP(C)/739/2023

BABULAL SARMAH
SON OF LATE PRASANNA SARMAH,
VILLAGE- BENGABORA,
P.O.- OUTOLA, P.S.- MANGALDAI,
DISTRICT- DARRANG, ASSAM,
PIN-784125.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
DEPARTMENT OF HIGHER EDUCATION,
DISPUR, GUWAHATI-6.

2:DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:PRINCIPAL AND SECRETARY
MANGALDAI COLLEGE
MANGALDAI
DARRANG

PIN- 784125

Advocate for the Petitioner : MR C GOSWAMI

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

10/02/2023

Heard Mr. C Goswami, learned counsel for the petitioner and Mr. A R Tahbildar, learned Standing counsel, Higher Education Department for the respondent Nos. 1 & 2.

Petitioner submitted that the authorities of Mangaldai College, Mangaldai, District-Darrang on 30.10.2010 engaged him as a Grade-IV employee in the office of the Principal of the said college on contractual basis w.e.f. 01.11.2010 to 31.12.2010 pursuant to which he joined his service and received a salary at a consolidated pay of Rs.1000/- per month. However, his service was extended by the college authority from time to time. During his such service, he served as a Laboratory Bearer in the Science Department mostly in the Department of Chemistry of the said college on contractual basis.

The authorities of the said college on 19.11.2022 issued an advertisement inviting applications for filling up the posts of Grade-IV including the posts of Laboratory Bearer, 1 (one) post of Laboratory Bearer under unreserved economically weaker section, 1 (one) post of Laboratory Bearer for unreserved category, 1 (one) post of Laboratory Bearer for Schedule Tribe (Hills) and 2 (two) posts of Laboratory Bearer in the category of Other Backward Classes/most of the Other Backward Classes providing that the educational qualification is Class-VIII passed, the upper age limit should not be more than 40 years of age as on 01.01.2022, relaxation of 5 years for the reserved category of Schedule Caste and Schedule Tribe, relaxation of 3 years for the category of OBC/MOBC, 2 years for Ex-servicemen and 10 years for Persons With Disabilities as applicable as per the Government Guideline dated 02.09.2020.

By the said advertisement dated 19.11.2022, the authorities of Mangaldai College specified that the last date of submission of application is within 15 days from the date of publication of the said advertisement, i.e., 19.11.2022.

Petitioner submitted that though he applied for the post of Laboratory Bearer under unreserved category, but the college authority did not issue him any call letter and as such, he could not appear during the selection process. Moreover, he stated that his application, if rejected, it was without any intimation to him by the college authority.

As such, the petitioner has filed this writ petition on 08.02.2023 praying amongst others for issuance of writ in the nature of mandamus and other appropriate writ(s) directing the respondent authorities, particularly the authorities of Mangaldai College to reconsider his application praying for the post of Laboratory Bearer at Mangaldai College pursuant to the advertisement dated 19.11.2022.

Petitioner has not annexed any such certificate showing his date of birth.

From the statements made in this writ petition, it is clear that the petitioner applied for the post of Laboratory Bearer in the said Mangaldai College, Mangaldai under unreserved category as advertised on 19.11.2022. Therefore, it can be well presumed that the petitioner belongs to General category, where a candidate must be maximum of 40 years of age as on 01.01.2022. Since he belongs to the General category, question of any such relaxation of age does not arise.

From his affidavit filed in this writ petition at page-12, it can be seen that he is 44 years at the time of filing of this petition in February, 2023. Therefore, it goes to show that petitioner's date of birth was in the year 1979.

If the petitioner's date of birth was in the year 1979, then as on 01.01.2022, he was 43 years, much above 40 years as on 01.01.2022.

Petitioner has also not stated in this writ petition that he applied before the authority of Mangaldai College, Mangaldai for relaxation of his upper age.

Since the petitioner was not eligible by his age in terms of the said advertisement dated 19.11.2022 issued by the authorities of Mangaldai College, Mangaldai, District-Darrang for the post of Laboratory Bearer under unreserved category, the Court have not find any valid reason to pass order/direction to the respondent college authority to issue call letter to the petitioner as the petitioner at the time of filing of his application was fully aware of the fact that he was not eligible for the said post by his age.

Accordingly, this writ petition, being devoid of merit, stands dismissed.

JUDGE

Comparing Assistant