

GAHC010106682011



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

Case No. : WP(C)/1893/2011

PRITOM CHOUDHURY
S/O. SRI SUKUMAR CHOUDHURY, PERMENENT R/O. DHARMANAGAR
COLONEY, WARD NO. -11, P.O. and P.S.- BADARPUR, DIST.- KARIMGANJ,
NOW RESIDING AT PARK ROAD, SILCHAR, P.O. and P.S.- SILCHAR, DIST. -
CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE COMMISSIONER and SECY, GENERAL ADMINISTRATIVE
DEPTT. GOVT. OF ASSAM, DISPUR, GHY-6

2:THE DEPUTY COMMISSIONER

CACHAR
SILCHAR
DIST.- CACHAR
ASSAM

3:THE PROJECT DIRECTOR

DIST. RURAL DEVELOPMENT AGENCY
CACHAR
SILCHAR
DIST.- CACHAR
ASSAM

4:THE BLOCK DEVELOPMENT OFFICER

UDARBAND DEVELOPMENT BLOCK
UDARBAND
DIST.- CACHAR

ASSA

Advocate for the Petitioner : MS.M DEV

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 13-06-2023

Heard Mr. S. Chakraborty, learned counsel for the writ petitioner. Also heard Mr. D. Bora, learned counsel appearing for the respondent No. 2 as well as Mr. S. Dutta, learned standing counsel, P&RD Department, Assam appearing for the respondent Nos. 3 and 4. None has appeared for the respondent No. 1.

As per the case projected in the writ petition, the respondent No. 2, i.e. the Deputy Commissioner, Cachar had earlier issued an advertisement inviting applications for filling up 25 posts of Junior Assistants under his establishment. Pursuant to the said advertisement, the writ petitioner herein had applied and thereafter, he had also participated in the selection process. After completion of the selection process, a select list was published wherein the petitioner's name appeared at Sl. No. 17.

According to the petitioner, he ought to have been appointed as Junior Assistant on regular basis pursuant to the aforesaid selection process. However, instead of doing so, the respondent authorities had given him contractual appointment in the post of Accounts Assistant and placed his service at the disposal of the respondent No. 3 with an assurance

that at an appropriate time, his services will be regularized in the post of Junior Assistant in the establishment of the respondent No. 2.

Mr. Chakraborty submits that the aforesaid recourse had been taken by the authorities so as to accommodate persons of their choice in the vacant posts of Junior Assistant. Therefore, this is a clear case of violation of not only the terms of the advertisement but also the principles of natural justice and administrative fair play.

This writ petition was filed in the year 2011. However, even after lapse of more than 12 years, the respondents have not filed counter affidavit. Therefore, although the copy of the advertisement is not available on record, yet, due to non-traversal of the facts stated in the writ petition, this Court would have to take a *prima facie* view that the assertion made by the petitioner is correct. If it is a fact that the writ petitioner had actually participated in a regular process of recruitment for filling up 25 vacant posts of Junior Assistant but having emerged successful, he was given contractual appointment in the post of Account Assistant in another establishment, then there can be hardly any doubt about the fact that the right of the petitioner had been violated in this case. However, in the absence of any affidavit filed by the respondents, the materials available on record are insufficient for this Court to arrive at a clear finding on the aforesaid aspect of the matter.

As such, balancing the equities and in order to do complete justice in the matter, this writ petition is being disposed of with a direction upon the respondent No. 2 to enquire into the matter and ascertain as to whether, the writ petitioner had actually taken part in the selection process for filling up 25 vacant posts of Junior Assistant in the

establishment of the Deputy Commissioner, Cachar and if so, did he emerge as a successful candidate in the said process. If the answer to the aforesaid questions turns out to be in the affirmative, then the respondent No. 2 would forthwith take steps for redressal of grievance of the petitioner by regularizing his services in the post of Junior Assistant. If, however, the outcome of the enquiry turns out to be otherwise, the said fact would be informed to the petitioner in writing.

The aforesaid exercise be carried out and completed as expeditiously as possible, but not later than 06 weeks from the date of receipt of a certified copy of this order.

With the above observation, this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant