

GAHC010150392022



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

Case No. : WP(C)/4957/2022

ANWAR HUSSAIN
S/O- ABDUL MONAF, R/O- VILL.- BAKRIHAWAR PT-VIII, P.O. KALINAGAR,
DIST. HAILAKANDI, ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
MINISTRY OF COMMUNICATIONS, DEPARTMENT OF POSTS (GDS
SECTION) REPRESENTED BY ITS SECRETARY, GOVT. OF INDIA,
DEPARTMENT OF POSTS AND TELECOMMUNICATIONS, DAK BHAWAN,
NEW DELHI-110001.

2:THE DIRECTOR GENERAL OF POSTAL SERVICES
DAK BHAWAN
NEW DELHI-110001.

3:THE ASSISTANT DIRECTOR GENERAL

GRAMIN DAK SEVAKS (GDS)
DAK BHAWAN
NEW DELHI-110001.

4:THE ASSISTANT DIRECTOR
OFFICE OF THE CHIEF POST MASTER GENERAL
ASSAM CIRCLE
MEGHDOOT BHAWAN
GHY-781001.

5:THE SENIOR SUPERINTENDENT OF POST OFFICES
CACHAR POSTAL DIVISION
CACHAR
P.O. SILCHAR

DIST. CACHAR
ASSAM
SILCHAR-01

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

09.01.2023

Heard Mr. M. Khan, the learned counsel for the petitioner and Mr. S. Borthakur, the learned counsel appearing on behalf of the respondents.

The instant writ petition has been filed by the petitioner challenging the letter dated 19.07.2022 whereby the petitioner's candidature was rejected with the remark that the father's name did not tally.

The fact of the instant case is that the petitioner was born on 07.03.1993 and belongs to a poor strata family and he had passed Praveshika Examination, 2015. Thereupon, the petitioner obtained Diploma in Computer Application (DCA). The petitioner also belongs to the Other Backward Classes and in that regard, a certificate was issued by the General Secretary, All Assam Other Backward Classes Association certifying that the petitioner belongs to the "Maimals" (Muslim Fisherman) Community and is recognized as Other Backward Class by the Government of Assam. However, in issuing the said certificate, the authority concerned has put a prefix to the name of the petitioner as well as his father and mother whereby the petitioner's name was shows as Sk. Anwar Husain, his

father's name was shown as Sk. Abdul Manaf and mother as Sk. Husna Begum. It may also be relevant to mention that the said certificate issued by the General Secretary, All Assam Other Backward Classes Association was countersigned by the Extra Assistant Commissioner, Hailakandi as authorized by the Deputy Commissioner, Hailakandi.

In pursuance of a notification issued for engagement of Gramin Dak Sevaks, the petitioner applied as a candidate from the Other Backward Classes. In the said application, the petitioner, taking into account that his name has been recorded in all the documents as Anwar Hussain, son of Abdul Manaf has shown his name as Anwar Hussain and his father's name is shown as Abdul Manaf. However, the respondent authorities rejected the said candidature of the petitioner on the ground that the name of the father of the petitioner did not tally with the name as given in the Other Backward Classes Certificate. Under such circumstances, the petitioner herein has approached this Court under Article 226 of the Constitution.

This Court vide an order dated 01.08.2022 issued notice making it returnable on 17.08.2022. In the said order, this Court had also directed the petitioner to file an affidavit by the President/General Secretary, All Assam Other Backward Classes Association indicating in clear terms as to whether in the Other Backward Classes Certificate the word "Sk." was written before the names of the petitioner, his father and mother are means of addressing the person or according to the Association it is a part of the formal name of the person concerned. Vide interim order, this Court further directed the respondents to proceed with the candidature of the petitioner without insisting upon the rejection of candidature of the petitioner but not to take a final decision without the leave of the Court. It further appears from the

record that vide another order dated 17.08.2022, this Court had observed that one post of Assistant Branch Post Master, Cachar Postal Division be kept vacant.

Today, when the matter has been listed for admission, Mr. S. Borthakur, the learned counsel appearing on behalf of the Postal Department has submitted that the petitioner's case was rejected on the ground that upon verification it was found that the father's name mentioned in the Other Backward Classes Certificate differs with all other documents by the verifying authority. It is also relevant to take note of that in pursuance of the order passed by this Court on 01.08.2022, the petitioner has filed an additional affidavit enclosing therewith an affidavit filed by the President of Hailakandi District Committee of All Assam Other Backward Classes Association.

From a perusal of the affidavit dated 08.08.2022, executed by the President of the Hailakandi District Committee of All Assam Other Backward Classes Association, he has stated that during his tenure as General Secretary in the said Association in the year 2008, he had issued the Caste Certificate dated 01.07.2008 in favour of Sk. Anwar Hussain, son of Sk. Abdul Manaf and Sk. Husna Begum of village Bakrihawar, Part-VIII, P.S.- Algapur in the district of Hailakandi, Assam. By way of the said affidavit, the said deponent has clarified that the term "Sk." as inserted against their names are not the part of the actual name. It has been mentioned that the term "Sk." has been inserted as per the instructions of the then Deputy Commissioner, Hailakandi only for the purpose of issuing Other Backward Class Certificate indicating that he/she belongs to weaker section of the community. It has been further clarified in the said affidavit that in the

Other Backward Class Certificate the term "Sk." has been inserted only to indicate the "Maimals" (Muslim Fisherman) Community.

On the basis of the above materials on record and also upon hearing the learned counsel for the parties, it appears that the term "Sk." which has been used in the Certificate dated 01.07.2008 issued in favour of the petitioner is used only as a prefix by the authority concerned to show that the petitioner, his father and mother belong to the "Maimals" (Muslim Fisherman) Community which is recognized as the Other Backward Class by the Government of Assam. It further appears from the Certificates enclosed to the instant writ petition, i.e. Annexure-1, Annexure-2 and Annexure-3 that the petitioner's name all along have been shown as Anwar Hussain and the names of his father and mother have been shown as Abdul Manaf and Husna Begum respectively. Merely because of the fact that the authority concerned had put a prefix to the name as "Sk." to indicate that they belong to the "Maimals" (Muslim Fisherman) Community, the authority concerned ought not to have rejected the candidature of the petitioner on that ground alone.

Considering the above, this Court interferes with the rejection letter dated 19.07.2022 issued by the Superintendent of Post Office, Cachar and directs the respondent authorities to consider the case of the petitioner in terms with the notification for engagement of Gramin Dak Sevak by taking into account that the Certificate dated 01.07.2008 issued by the General Secretary of All Assam Other Backward Classes Association which has been countersigned by the Extra Assistant Commissioner, Hailakandi has been issued in favour of the petitioner and the term "Sk." so prefixed against the names of the petitioner, his father and his mother shall not be considered

as a part of the names of the petitioner, his father and mother.

It is made clear that one post of Assistant Branch Post Master, Cachar Postal Division which was directed to be kept vacant vide order dated 17.08.2022 shall not be filled up without considering the case of the petitioner in the manner indicated above.

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

JUDGE

Comparing Assistant