

GAHC010155672019



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

Case No. : WP(C)/4979/2019

UNION OF INDIA AND 7 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF
COMMUNICATION AND INFORMATION TECHNOLOGY, DEPTT. OF POSTS,
DAK BHAWAN, SANSAD MARG, NEW DELHI- 110001

2: THE DIRECTOR GENERAL (GDS SECTION)
DEPTT. OF POSTS
DAK BHAWAN
SANSAD MARG
NEW DELHI- 110001

3: THE ASSTT. DIRECTOR GENERAL (GDS SECTION)
DEPTT. OF POSTS
DAK BHAWAN
SANSAD MARG
NEW DELHI- 110001

4: THE CHIEF POST PATER GENERAL
ASSAM CIRCLE
MEGHDOOT BHAWAN
GHY-1
KAMRUP (M)

5: THE DIRECTOR OF POSTAL SERVICES
ASSAM CIRCLE
MEGHDOOT BHAWAN
GHY-1
KAMRUP (M)

6: O/O THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE
MEGHDOOT BHAWAN
GHY-1
KAMRUP (M)

7: THE SUPERINTENDENT OF POSTS OFFICES
TINSUKIA DIVISION
P.O. AND DIST- TINSUKIA

8: THE SUB DIVISIONAL INSPECTOR OF POSTS OFFICES
TINSUKIA SUB DIVISION
P.O. TINSUKIA 78612

VERSUS

DEBAJIT PATAR
S/O- SHRI BABUL PATAR, NATUN BHARALI BARI GAON, P.O.
ERAMESHLOW, P.S. KHOWANG, MOUZA- LENGIERI, DIST- DIBRUGARH,
PIN- 785676

Advocate for the Petitioner : MR. S C KEYAL

Advocate for the Respondent : MR G P BHOWMIK

Linked Case : WP(C)/1060/2021

DEBAJIT PATAR
S/O- SHRI BABUL PATAR
NATUN BHARALI BARI GAON
P.O.- ERAMESHLOW
P.S. KHOWANG
MOUZA- LENGIERI
DIST.- DIBRUGARH
ASSAM
PIN- 785676

VERSUS

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REP. BY THE SECY. TO THE GOVT. OF INDIA
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DAK BHAWAN
SANSAD MARG

NEW DELHI- 1100001

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4:THE CHIEF POSTMASTER GENERAL

ASSAM CIRCLE

MEGHDOOT BHAWAN

GHY-01

DIST.- KAMRUP (M)

(ASSAM)

PIN- 781001

5:THE DIRECTOR OF POSTAL SERVICES

ASSAM CIRCLE

MEGHDOOT BHAWAN

GHY-01

DIST.- KAMRUP (M)

(ASSAM)

PIN- 781001

6:ASSTT. DIRECTOR (STAFF)

O/O THE CHIEF POSTMASTER GENERAL

ASSAM CIRCLE

MEGHDOOT BHAWAN

GHY-01

DIST.- KAMRUP (M)

(ASSAM)

PIN- 781001

7:THE SUPERINTENDENT OF POST OFFICES

TINSUKIA DIVISION

P.O. AND DIST.- TINSUKIA

PIN- 786125

8:THE SUN-DIVISIONAL INSPECTOR OF POST OFFICES

TINSUKIA SUB-DIVISION

P.O.- TINSUKIA

PIN- 786125

Advocate for : MR G P BHOWMIK

Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 7 ORS

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.06.2023

(M. Zothankhuma, J)

Heard Mr. RKD Choudhury, learned Deputy SGI for the writ petitioners in WP(C) No. 4979/2019 and the respondents in WP(C) No. 1060/2021. Ms. S. Khataniar, learned counsel appears on behalf of Mr. G.P. Bhowmik, learned Senior Counsel for the respondents in WP(C) No. 4979/2019 and the petitioner in WP(C) No. 1060/2021.

2. WP(C) No. 4979/2019 is a challenge to the order dated 22.11.2018 passed in Original Application No. 040/00359/2016 by the Central Administrative Tribunal, Guwahati Bench. In O.A. No. 040/00359/2016, the learned Tribunal had directed the Union of India to complete the process of engagement of the applicant as Gramin Dak Sevak, after due verification of his documents in terms of the Advertisements dated 04.05.2016, 03.06.2016 and 23.05.2016, published by the Sub-Divisional Inspector of Post Offices, Tinsukia Sub-Division.

3. For easier disposal of the above two writ petitions, the placement of the parties in Cause Title of WP(C) No. 4979/2019 is being reflected in this Order.

4. The brief facts of the case is that in pursuant to the Advertisements dated 04.05.2016, 03.06.2016 and 23.05.2016 for appointment/engagement to the post of Gramin Dak Sevak at various offices, the respondent submitted his application for the same. During the selection process which was nearing completion as the same was at the stage of verification of documents of the candidates, the impugned letter dated 01.08.2016 was issued to all the offices

of the writ petitioners directing them to stop the selection process for engagement of Gramin Dak Sevak with immediate effect. However, cases where selection has already been finalized and communicated to the candidates was not to be affected by the impugned letter dated 01.08.2016. The impugned letter also stated that the order had been issued in view of the proposal for online selection of Gramin Dak Sevak. The impugned letter dated 01.08.2016 is reproduced below as follows:

“To,

All Head of Circles

Sub: Proposed on line selection of all categories of GDS-reg

I am directed to request you to stop selection/engagement of all types of Gramin Dak Sevaks with immediate effect. It is further requested to stop all cases of engagement which are under process. Cases where selection has already been finalized and communicated to candidates only need not be withheld.

2. These orders are issued in view of proposal for on line selection of Gramin Dak Sevaks. Further orders in this regard may kindly be awaited.

3. This issues with the approval of competent authority.”

5. The respondent who was being considered for selection, being aggrieved with the stoppage of the selection process, when the only requirement left for

considering his selection was verification of his documents, filed O.A. No. 040/00359/2016 before the learned Tribunal, praying for quashing the impugned letter dated 01.08.2016 and to direct the writ petitioners/authorities to complete the process for selection/engagement of the Gramin Dak Sevak in line with the Advertisements issued by the authorities.

6. The learned Tribunal, after hearing the parties, held that though it had no comments to make on the new online selection process for engagement of Gramin Dak Sevaks, they could not ignore the case of the respondent, where the engagement to the post of Gramin Dak Sevak was at the stage of document verification. Further, six similarly situated candidates in six other branch offices had already been engaged, the only difference being that their selection, including document verification, had been completed prior to the issuance of the impugned letter dated 01.08.2016. The learned Tribunal then held that the decision to make the engagement of Gramin Dak Sevak through online process in respect of the post applied for by the respondent, while filling up other post in other offices in the offline mode was not proper and fair. Accordingly, it directed the writ petitioners to complete the process for consideration of engagement of the applicant, after due verification of documents and to pass necessary orders.

7. The learned counsel for the writ petitioners submits that though the learned Tribunal had made its decision on the principle of the writ petitioners having unfairly changed the rules of the game in the middle of the selection process, the said principle could not have been applied, inasmuch as, there was no change made to the basic qualification required for the post of Gramin Dak Sevak and it was only with regard to the method/process to be followed for

making the selection process. He however fairly submits that due to the fact that six other persons have been appointed on the basis of the selection process made in pursuant to the same Advertisements, the selection process which involved the petitioner should have been allowed to be completed, in the peculiar facts and circumstances of the case.

8. We have heard the learned counsels for the parties.

9. The facts of the case show that the respondent and a number of persons had submitted their applications for engagement as Gramin Dak Sevaks in different offices in terms of the Advertisements dated 04.05.2016, 03.06.2016 and 23.05.2016. Some Gramin Dak Sevaks were appointed to some of the offices in pursuance to the above Advertisements, as their selection process had been completed at an earlier point of time. As per the stand taken by the respondent, which is recorded by the learned Tribunal, the selection process had been completed in the respondent's case and the only thing that remained was verification of documents. As six other persons had already been appointed on the basis of the same Advertisements, their selection process having been completed prior in time, the stoppage of the selection process wherein the respondent participated does not seemed to be fair.

10. In the case of ***State of Uttar Pradesh Vs. Karunesh Kumar***, reported in ***2022 Livelaw (SC) 1035, Civil Appeal Nos. 8822-8823 of 2023***, the Apex Court has held that the principle of changing the rules of the game won't apply when change is regarding the process and not the basic qualification.

11. The above being said, the fact remains that the said impugned letter is not

being applied uniformly. It has only been made applicable to those selection processes which have not been completed, while not disturbing the selection process that had been completed, even though all the said selection processes had arisen out of the same three Advertisements dated 04.05.2016, 03.06.2016 and 23.05.2016. The learned Tribunal had relied upon the judgment of the Apex Court in ***Modan Mohan Sharma & Anr. Vs. State of Rajasthan***, reported in ***2008 3 SCC 724***, wherein it has been held that once an advertisement had been issued on the basis of a circular, the selection process should continue on the basis of the criteria which was laid down therein. The impugned letter dated 01.08.2016 seeks to engage Gramin Dak Sevak by way of online selection. We fail to understand as to why the selection process already undertaken, needs to be done away with and a new selection process by way of online selection is required to be done, when the selection process was nearing completion. No reasons for the same has been forthcoming. When six persons have already been appointed on the basis of selection processes to different offices as Gramin Dak Sevaks, on the basis of the same three advertisements, there should have been some reason for stopping the near completed selection process wherein, the case of the respondent was being considered as a participant. In the case of ***Oryx Fisheries Pvt. Limited Vs. Union of India & Ors***, reported in ***2010 13 SCC 427***, the Apex Court has held that administrative authorities including quasi judicial authorities when making a decision, must be informed of reason. In the case of ***Style (Dress Land) Vs. U.T Chandigarh***, reported in ***1999 7 SCC 89***, the Apex Court has held that every State action should be informed of reason. The State action which is not informed by reason cannot be protected, as it would be easy for citizens to question such action as being arbitrary. In the present case, no reason having been given for making the engagement of

Gramin Dak Sevaks on online selection, despite near completion of the offline selection process, the impugned letter is accordingly found to be arbitrary. We do not find any infirmity with the impugned order dated 22.11.2018 passed by the learned Tribunal, directing the writ petitioners/authorities to complete the process for consideration of engagement of the applicant by verification of documents and otherwise in accordance with law.

12. Accordingly, WP(C) No. 4979/2019 is dismissed. WP(C) No. 1060/2021 is accordingly allowed. Consequently, the impugned letter dated 01.08.2016 passed by the authorities, in so far as it relates to the case of the respondent in WP(C) No. 4979/2019, is hereby set aside.

JUDGE

JUDGE

Comparing Assistant