

GAHC010175022022



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

Case No. : WP(C)/5713/2022

ROFIQUL HOQUE
S/O- ISHAK ALI, R/O- BAKRIHAWAR PT-VIII, P.O. KALINAGAR, DIST.-
HAILAKANDI, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
MINISTRY OF COMMUNICATIONS, DEPTT. OF POSTS (GDS SECTION) REP.
BY ITS SECY., GOVT. OF INDIA, DEPTT. OF POSTS AND
TELECOMMUNICATIONS, DAK BHAWAN, NEW DELHI- 110001

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

3:THE ASSTT. DIRECTOR GENERAL
GRAMIN DAK SEVAKS (GDS)
DAK BHAWAN
NEW DELHI- 110001

4:THE ASSTT. DIRECTOR
OFFICE OF THE CHIEF POST MASTER GENERAL
ASSAM CIRCLE
MEGHDOOT BHAWAN
GHY-01

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

SILCHAR-01

6:BAKRIHAWAR ADARSHA SANSKRIT VIDYALAYA
REP. BY ITS PRADHAN ADHYAPAK
BAKRIHAWAR PT-VIII
P.O. KALINAGAR
DIST.- HAILAKANDI
ASSAM
PIN- 78880

Advocate for the Petitioner : MR. M KHAN

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

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 10-04-2023

Heard Mr. M. Khan, learned counsel for the writ petitioner. Also heard Mr. R.K.D. Choudhury, learned DSGI appearing for the respondent.

The writ petitioner herein had submitted his application for the post of Asstt. Branch Post Master under the Gramin Dak Seva in response to the advertisement notice dated 17-08-2022 issued by the authorities. As per the advertisement notice the candidates must have proficiency in the local language. Since the petitioner had applied for the post in the Cachar district, in respect of which, the notified local language was 'Bengali', hence, he was required to produce documentary proof in support of his claim of proficiency in 'Bengali'. The petitioner had submitted online application along with his mark-sheet and other documents. In the mark-sheet submitted by the petitioner both 'Assamese' and 'Bengali' were shown in the column of MIL subject. However, in the mark-sheet issued by the Assam Sanskrit Board, it was not clearly indicated as to whether the

Modern Indian Language (MIL) of the petitioner was Assamese or Bengali. According to the authorities, since there was no clarity as to whether the petitioner had proficiency in 'Assamese' or 'Bengali', hence, he did not meet the eligibility norms pertaining to "local language". As such, his application was not accepted.

The verification of the documents took place on 08-08-2022. But the petitioner had obtained a certificate issued by the Pradhan Adhyapak of the school where he had studied only on 12-08-2022. The certificate goes to show that the MIL of the petitioner was 'Bengali'. However, since that certificate was obtained after the last date of verification of documents was over, the same was not taken into account by the authorities. Aggrieved thereby, the petitioner has approached this Court by filing the instant writ petition.

On 02-09-2022, an interim order was issued by this Court directing the authorities to keep one post vacant. Accordingly, one post of Asstt. Post Master in the district of Cachar has been kept vacant.

There is no dispute in this case that the petitioner had studied 'Bengali' as his MIL subject. He had also studied Sanskrit. The documents available on record also shows that the petitioner had scored high marks in almost all the subjects. From the documents on record, there can be no doubt about the fact that the petitioner has had a brilliant academic career. Therefore, the only question that would arise in this case is as to whether, merely because of an omission on the part of the school authorities in failing to clearly indicate in the mark-sheet as to which of the two subjects was the MIL studied by the petitioner, should he be made to suffer. The answer to the said question has to be in the negative.

It is no doubt correct that there was some delay on the part of the writ petitioner to obtain the clarificatory document from the school authorities. However, since the petitioner had submitted his application within time and by following the prescribed procedure, such delay alone cannot be a valid ground to deny him the benefit of the recruitment process, if he is otherwise found to be eligible. Since there is no dispute in this case that the petitioner had in fact studied 'Bengali' as MIL and that subject is also the notified "local language" for Cachar district and considering the academic record of the petitioner, I am of the considered opinion that he has made out a good case for interference by this Court.

This writ petition is, therefore, being disposed of by directing that, subject to fulfillment of all other eligibility norms, conditions of the advertisement notice as well as the merit position, the authorities may consider the case of the petitioner for appointment as Asstt. Post Master by treating 'Bengali' as his MIL and thereafter, issue consequential order.

The above exercise be carried out and completed as expeditiously as possible, but not later than 45 days from the date of receipt of a certified copy of this order.

With the above observation, this writ petition stands closed.

JUDGE

GS

Comparing Assistant