

GAHC010014112024



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

Case No. : WP(C)/373/2024

1: NISHIKANT PATOA AND 2ORS
S/O- LATE HIRA CHAND PATOA,
R/O- CENTRAL ROAD, SILCHAR TOWN, DIST- CACHAR, ASSAM

2: KANCHAN SINGH
S/O- LATE RAM NARESH SINGHA
R/O- ITKHOLA GNB ROAD P.O- SILCHAR DIST- CACHAR ASSAM

3: SANJIB PAUL
S/O- LATE RAMPADA PAUL
R/O- RISHI AUROBINDA SARANI HAILAKANDI ROAD
SILCHAR-05 P.S- SILCHAR DIST- CACHAR ASSAM

VERSUS

1: THE STATE OF ASSAM AND ANR REP. BY THE COMMISSIONER AND
SECRETARY TO THE GOVT. OF ASAM, SCHOOL EDUCATION
DEPARTMENT, DISPUR, GUWAHATI-06

2: ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS SECRETARY JAWAHAR NAGAR KHANAPARA GUWAHATI-2

Advocate for the Petitioner : MR. N H LASKAR

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 24-01-2024

Heard Mr. N.H. Laskar, learned counsel for the petitioners. Also heard
Mr. S.M.T. Chistie, learned standing counsel, Education (Secondary)

Department, representing the respondent No.1 and Mr. T.J. Mahanta, learned senior counsel, assisted by Ms. P. Sarma, learned counsel representing the respondent No.2.

The issue raised by the petitioners in the present petition pertains to the validity of the age limit prescribed in the advertisement No.32/2023 dated 12.12.2023 issued by the Assam Public Service Commission (APSC), amongst others, for filling up 12(twelve) numbers of post of Inspector of Schools/District Elementary Education Officers /Deputy Director under the Assam Education Services.

The petitioners, 3(three) in numbers, have instituted the present proceeding on 23.01.2024 challenging the said advertisement dated 12.12.2023 on the ground that the age criteria as prescribed therein is illogical and is not in tandem with the educational qualification and administrative experience prescribed in the said advertisement. In other words, it is the case of the petitioners that given the requirement of educational qualification and administrative experience, it is not possible for a candidate to acquire the same within the age range of 21 years and 38 years, as mandated in the said advertisement. It is noted that the age, as prescribed in the said advertisement, require the candidate to be not less than 21 years of age and not more than 38 years of age as on 01.01.2023 with relaxation for persons belonging to the reserved community as well as persons with benchmark disabilities.

In the writ petition, the petitioner Nos.1, 2 & 3 have disclosed that as on 01.01.2023, they were aged about 38 years 11 months 5 days, 49 years 11 months 13 days and 47 years 11 months 16 days, respectively, and accordingly given the prescription of age in the said advertisement, they were debarred from applying against the said advertisement dated 12.12.2023. In justification

of the said plea for interfering with the age prescription in the said advertisement, it was contended by the petitioners that it was impossible for a candidate to acquire the educational qualification as well as the administrative experience, as mandated in the advertisement, within the age range prescribed therein and the said prescription is arbitrary.

On perusal of the writ petition, it is found that the petitioner Nos.1, 2 & 3 had annexed experience certificates showing that they had been in service w.e.f. 05.08.2008, 06.06.2011 and 02.04.2014, respectively. What is striking in the present matter is that the petitioners in pursuance to the said advertisement dated 12.12.2023 did not submit their applications within the last date prescribed, i.e. 14.01.2024, and had instituted the present proceeding on 23.01.2024, i.e. after the last date for submission of the applications had passed. It is not disclosed in the writ petition that the petitioners had also applied before the competent authority for condonation of their over ages.

It is a settled law that every recruitment process is governed by Recruitment Rules and terms, conditions and eligibility as prescribed in the advertisement concerned. As per the applicable law, the qualification and other eligibility criteria relate back to the date of advertisement. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot alter the eligibility criteria including the prescription with regard to age required in an advertisement. Such power is solely vested with the recruiting agency and the said agency prescribes such eligibility criteria basing on certain norms including the Rules, if any, holding the field with regard to the service wherein the post is so included.

In the case at hand, the petitioners having not approached this Court before the last date of submission of applications and having not taken any

steps for submitting applications for condonation of their over ages, the petitioners cannot be deemed to be aggrieved persons with regard to the prescriptions as made in the said advertisement dated 12.12.2023. After the last date of submission of applications is over, no direction can be issued by this Court requiring submission of applications by the petitioners herein. As such, the claims made by the petitioners at the belated stage cannot be accepted. It is to be noted that the petitioners had slept over the matter and waited till the last date for submission of applications in pursuance to the advertisement dated 12.12.2023 to pass before approaching this Court.

In view of the said conclusion reached, the contentions made by the petitioners are without any merit and cannot be accepted. The writ petition being bereft of any merit deserves to be dismissed and is hereby dismissed. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant