

GAHC010070992018



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

Case No. : WP(C)/2194/2018

RUHINI KR. NATH AND 8 ORS.
S/O. LT. GOHIN CH. NATH, VILL. MAYENGIA, P.O. CHORAIBAHI, DIST.
MORIGAON, ASSAM.

2: UTPAL CHAKRABORTY

S/O. LT. PROMOD CHAKRABORTY
VILL. MOLIGAON
P.O. BOITAMARI
DIST. BAONGAIGAON
ASSAM.

3: RUP KUMAR NATH

S/O. LT. DILIP KR. NATH
VILL. NEW GOALPARA
P.O. BALADMARI
DIST. GOALPARA
ASSAM.

4: TARUN BORA

S/O. DINESWAR BORA
R/O. VILL. TELIAPONIGAON
P.O. HAIBORGAON
DIST. NAGAON
ASSAM.

5: RAJIBUL ISLAM

S/O. LT. TAHER ALI
VILL. GERGERIACHUNI
P.O. PUB REHABARI
DIST. BARPETA

ASSAM.

6: AJIT RAI

S/O. LT. KAMESWAR RAI
VILL. CHANDANNAGAR
P.O. JORHAT
DIST. JORHAT
ASSAM.

7: RAHUL NATH

S/O. LT. ROBINDRA MOHAN NATH
R/O. LINL ROAD
LANE NO.2
P.O. SILCHAR
DIST. CACHAR
ASSAM

8: GOUSUL AHMED LASKAR

S/O. LT. R. A. LASKAR
VILL. MEHERPUR
P.S. SILCHAR
DIST. CACHAR
ASSAM.

9: MOHAN HALOI

S/O. LT. NAREN HALOI
VILL. KATALA BORKUCHI
P.O. AND P.S. NALBARI
DIST. NALBARI
ASSAM

VERSUS

THE COMMISSIONER AND SECRETARY AND ANR.
TO THE GOVT. OF ASSAM, FISHERY DEPTT., DISPUR, GHY., ASSAM
SACHIVALAYA, DIST. KAMRUP (M), ASSAM.

2:THE DIRECTOR OF FISHERIES

ASSAM
GUWAHATI
MEEN BHAWAN
P.O. BIRUBARI
GUWAHAT

Advocate for the Petitioner : MR. S P DAS

Advocate for the Respondent : GA, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

16.02.2024

Heard learned counsel for the parties.

2. The petitioners were engaged as District Engineering Consultant in Fisheries Department on 28.09.2006 after due selection process under Assam Agricultural Competitiveness Project (AACP) on contractual basis. Though, initially they were engaged for one year, their services continued until 31.03.2015.
3. Thereafter, their services were terminated due to closure of the aforesaid scheme (AACP). Thereafter, regular selection of Junior Engineer (Civil) under the Fishery Department was undertaken by Assam Public Service Commission and the petitioners as former employees had also offered their candidatures. However, they failed to qualify and their names did not appear in the select list, which was published on 17.10.2017 by Assam Public Service Commission.
4. Thereafter, the Director of Fisheries had issued another advertisement notice on 31.03.2018 proposing to hire 15 Engineering Consultant-Fisheries. The petitioners having the required qualification and experience were also interested to apply but for the reason of upper age limit of 45 years as on 01.01.2018, the petitioner Nos. 1,2,8 and 9 had become ineligible to offer their candidatures. The other petitioners though were qualified, however, they claimed that they ought to have been allowed to continue in those posts instead of replacing them by another ad-hoc set of employees inasmuch as it is their case that they have served for 9 long years as District Engineering Consultant-Fisheries.

5. This court while issuing notice, passed an interim order dated 09.04.2018 whereby liberty was granted to the petitioners to apply for the posts of Engineering Consultant-Fisheries. This court further directed that the candidatures of the petitioners must receive consideration on merit along with other applicants. It was also provided that the petitioner Nos. 1,2,8 and 9, over aged candidates, should be allowed to participate and their applications should not be rejected on the ground of crossing upper age limit of 45 years.
6. It is stated at the bar that subsequent to this, the petitioners except petitioner No. 7 were selected and appointed to the posts of Engineering Consultant-Fisheries pursuant to the advertisement dated 17.10.2017.
7. The respondent No. 2 has filed an affidavit and has taken a specific stand that the respondent No. 7 was not appointed as he did not perform well in the interview.
8. In view of the aforesaid, in the considered opinion of this court, nothing survives to be adjudicated in the present writ petition.
9. The petitioner No. 7, if is aggrieved by the non-selection, shall have an independent cause of action to assail such determination of the selection committee.
10. In view of the aforesaid, the writ petition stands closed on being infructuous with a liberty to the petitioner No. 7 to approach the appropriate forum in the event he is still aggrieved for his non-selection to the post of Engineering Consultant-Fisheries.

JUDGE

Comparing Assistant