

GAHC010109692016



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

Case No. : WP(C)/2172/2016

RASHIKUL ISLAM,
S/O ABUL HUSSAIN,
R/O SILGHAGRI PT.I, P.O. HOWRARPAR,
P.S. and DIST- DHUBRI, ASSAM, PIN-783324.

---VERSUS---

1. THE STATE OF ASSAM,
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
SECONDARY EDUCATION DEPTT., DISPUR, GHY-6.

2:THE DIRECTOR OF MADRASSA EDUCATION, ASSAM,
KAHILIPARA, GHY-19.

3:THE INSPECTOR OF SCHOOLS,
DHUBRI DISTRICT CIRCLE, DHUBRI.

4:THE SUPERINTENDENT CUM MEMBER SECY.,
SELECTION COMMITTEE,
HOWRARPAR. DIST- DHUBRI,
ASSAM, PIN-783324

5:THE SELECTION COMMITTEE,
REP. BY THE PRESIDENT OF HOWRARPARA SENIOR MADRASSA
P.O. HOWRARPAR, DIST- DHUBRI, ASSAM, PIN-783324.

6:THE MEMBER OF SELECTION COMMITTEE OF
HOWRARPARA SENIOR MADRASSA,
P.O. HOWRARPAR, DIST- DHUBRI,
ASSAM, PIN-783324

7:NAZRUL ISLAM,
S/O NABAB ALI SK.,
VILL. KISMAT HASDAH-PT.II, P.O. KISMAT HASDAHA,
P.S. and DIST- DHUBRI, ASSAM, PIN-78332.

Advocate for the Petitioner : MR.Z HUSSAIN

Advocate for the Respondent : MR. R ISLAM

- B E F O R E -

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

04.01.2024

Heard Mr. Z. Hussain, learned counsel for the petitioner. Also heard Mr. U. Sarma, learned Standing Counsel, Secondary Education Department appearing for respondent Nos.1, 2, 3 & 4 and Mr. D.A. Kaiyum, learned counsel appearing for respondent No.7.

2. The petitioner, by way of this application, has assailed the selection and appointment of the respondent No.7 against the post of Junior Assistant (LDA) in Howrarpar Senior Madrassa, Howrarpar, Dhubri.

3. The basic facts requisite for examining the issues arising in the present proceedings are noted hereinunder.

4. The Director of Madrassa Education, Assam vide an advertisement dated 07.12.2015 had invited applications amongst others for the vacant post of Junior Assistant (LDA) of Howrarpar Senior Madrassa. The petitioner as well as the respondent No.7 had submitted their respective applications and they were called for the selection process and on conclusion of the selection process, the Selection Committee had recommended the name of the respondent No.7 and the petitioner at Serial Nos.1 and 2 respectively against the said post.

The petitioner had scored 151.99 marks whereas the respondent No.7 had scored 155.54 marks and accordingly, the respondent No.7 was recommended by the

Selection Committee for appointment and consequently, vide a notice dated 27.02.2016, the respondent No.7 was appointed by the Director of Madrasa Education, Assam, Kahilipara to the post of Junior Assistant (LDA) in Howrarpar Senior Madrasa and he is working therein.

5. It is this appointment of the respondent No.7 that has been put to challenge in the present proceeding.

6. Mr. Z. Hussain, learned counsel for the petitioner submits that the manner and method for conduct of the selection is laid down in the Notification dated 26.11.2015 and therein the criteria for selection of Junior Assistant (LDA) in Senior Madrasa held, was to be made on the basis of the marks obtained by the candidates out of total marks of 255 and breakup of which is as follows:-

Sl No.	Qualification	Total Marks	P.C. Marks	Marks obtained
1	2	3	4	5
1	HSLC/AHM/Equivalent	100	Say 65%	65
2	One year Diploma in computer Application (Written & Practical Examination) (Preference will be given to work experience holder)	100	Say 60%	60
3	Viva voce	25	25	25

7. Mr. Z. Hussain, learned counsel for the petitioner submits that the Selection Committee is required to prepare the select list only by extracting the percentage scored by the candidate in their HSLC/AHM/equivalent examination, the percentage of

marks scored in the examination held leading to the diploma in computer application and by adding thereto the marks scored in the viva-voce.

8. It is further submitted by Mr. Hussain, learned counsel for the petitioner that the Selection Committee while computing the marks, did not give any credence to the marks scored by the petitioner in the Computer Diploma examination and as a result of which, he was placed at a merit position inferior to that he too ought to have been placed had his merit been reckoned in terms of the notification dated 26.11.2015.

9. It is further submitted by Mr. Hussain that the petitioner having work experience and the same having been disclosed before the Selection Committee, he ought to have been preferred above the respondent No.7 inasmuch as the respondent No.7 did not have any such qualification and accordingly, Mr. Hussain prays that the writ petition requires to be allowed by interfering with the selection and appointment of the respondent No.7 and considering that the petitioner in the event of being granted the marks secured by him in the examination held for issuance of the Diploma in Computer Application, he would be placed at Serial No.1 and accordingly, this Court is required to issue directions to appoint to petitioner.

10. *Per contra*, Mr. D.A. Kaiyum, learned counsel for the respondent No.7 submits that the Selection Committee had conducted the said selection process strictly in accordance with the procedures as laid down in the Notification dated 26.11.2015 and there is no allegation of any *malafide* against the Selection Committee Members and as such, the selection and appointment of respondent No.7 is not required to be interfered by this court.

11. It is a submission of Mr. Kaiyum that the Selection Committee had held a practical examination for the purpose of ascertaining the suitability of the candidates with regard to use of computers and accordingly, in terms of the said practical test, marks were assigned which was fixed before the start of the selection process. The marks secured in the Matriculation examination, computer practical examination as

well as in the interview component were computed and accordingly, select list was prepared wherein the respondent No.7 was placed at Serial No.1 and accordingly, appointed against the said post in question.

12. I have heard the learned counsel for the parties and perused the materials available on record.

13. The manner of recruitment to the post in question is laid down in the Notification dated 26.11.2015. It is clear that the said selection shall be based on the marks secured in the HSLC/AHM/equivalent examination and in the written and practical examinations pertaining to computer application along with the marks secured in the viva-voce component.

14. It is an admitted position herein that the selection Committee had held a practical test to ascertain the suitability of the candidates in undertaking typing works in a computer and also their abilities to perform data entry works in various soft-wares being used. There was a particular pattern fixed for awarding marks in the said selection process and accordingly, the candidates appearing in the recruitment process were subjected to the said practical examination. On conclusion of the same, the Selection committee prepared the select list and therein both the petitioner and the respondent No.7 were given 74.99 % of marks as they had completed the assigned task within the time-frame prescribed. Thereafter, computing the marks secured by the candidates, respondent No.7 was placed at serial No.1 in the merit list whereas the petitioner was placed at Serial No.2.

15. The first contention of the petitioner that the selection process stood vitiated on account of non-consideration of the marks secured by the candidates in their respective examinations leading to issuance of Diploma/certificate in computer application is considered. The notification dated 26.11.2015 while prescribing marks to be assigned to the Diploma in Computer Application had qualified the same with the words "written and practical examination". Accordingly, the Selection Committee had

subjected all the candidates to a practical examination. The petitioner participated in such practical examination without any objection and now cannot be permitted to resile back and question the very method of selection process undertaken. The Diploma/certificates as obtained by the candidates not being from a particular institute and the said Diploma/certificate having not been obtained with a uniform process of evaluation, no fault can be found on the part of the Selection Committee in subjecting the candidates to an examination of uniform standard to assess their suitability.

16. The second contention of the learned counsel for the petitioner that the Notification dated 26.11.2015 mandates preference to be given to work experience holder and the petitioner having the requisite work experience which the respondent No.7 does not possess, should have been given preference ahead of the respondent No.7, is clearly without any substance inasmuch as the said preference would come into operation only when both the candidates would have scored equal marks in the selection process which is not the case at hand.

17. In view of the findings recorded hereinabove with regard to the contentions raised by the learned counsel for the petitioner and also the fact that the petitioner, having participated in the selection process without any objection, now cannot be permitted to assail the very selection process itself. The contentions of the petitioner does not merit acceptance. Hence, the Selection and appointment of respondent No.7 for the post of Junior Assistant (LDA) in Howrarpar Senior Madrassa does not call for any interference from this Court.

18. Accordingly, the writ petition stands dismissed as being devoid of merit.

19. There would be no order as to costs.

JUDGE

Comparing Assistant