

GAHC010112252016



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

Case No. : WP(C)/3136/2016

DEBAJIT SAIKIA
S/O SHRI BHARAT CHANDRA SAIKIA R/O HATIGARH, SEUJ NAGAR, P.O.
CHENGELI GAON, PIN- 785010, DIST. JORHAT, ASSAM.

VERSUS

THE OIL AND NATURAL GAS CORPORATION LIMITED and ANR.
EASTERN SECTOR, ASSAM ASSET, NAZIRA, PIN - 785685, IN THE DIS.T OF
SIBASAGAR, ASSAM, REP. BY ITS EXECUTIVE DIRECTOR.

2:THE HEAD

RECRUITMENT and PROMOTION DEPARTMENT
EASTERN SECTOR
ASSAM ASSET
NAZIRA
PIN - 785685
DIST. SIVASAGAR
ASSAM

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

JUDGMENT & ORDER

Advocate for the petitioner : Ms. A. Bhattacharjee, Advocate

Advocate for the respondents : Shri N. Islam, Advocate.

Date of hearing : 25.07.2024

Date of judgment : 25.07.2024

Heard Ms. A. Bhattacharjee, learned counsel for the petitioner. Also heard Shri N. Islam, learned counsel representing the ONGC.

2. The issue is with regard to a recruitment process undertaken by the ONGC for amongst others, the post of Junior Assistant Rigman (Drilling).

3. As per the facts projected, an advertisement was published being Advertisement No. 2/2015 by the ONGC in which the petitioner had participated. It is contended that the petitioner has a brilliant academic record and was confident that he will be ultimately selected. However, in the information uploaded in the website of the Corporation on 12.05.2016, the petitioner was held to be not qualified. It is the aforesaid action which is the subject matter of challenge in this writ petition.

4. Ms Bhattacharjee, the learned counsel has drawn the attention of this Court to the averments made in paragraph 4 to impress upon the Court regarding the brilliant academic career of the petitioner. It is submitted that the petitioner have passed the Matriculation examination in the year 2010 by securing high marks. It is also highlighted that the petitioner belongs to the OBC category for which there is reservation.

5. The learned counsel has also submitted that on his application for the said post, the petitioner was called for the Physical Standard Test and the Vision Test and in both the categories, the petitioner was held to be successful. The interview was held on 06.02.2016 in which the petitioner claims to have fared well in spite of which he has been shown to be not qualified. The learned counsel accordingly submits that due interference be made. It is also pointed out that so far as the OBC category is concerned, the upper age limit is 33 years

and the petitioner at present is about 30 years of age.

6. It is also pointed out that when the writ petition was moved, this Court had passed an order on 25.05.2016 directing that till the next returnable date, one post of Junior Assistant Rigman (Drilling) in the category of OBC should not be filled up. The learned counsel accordingly submits that a direction be made for consideration of the case of the petitioner.

7. *Per contra*, Shri Islam, the learned counsel for the Corporation has strenuously resisted and opposed the writ petition. By drawing the attention of this Court to the affidavit-in-opposition filed on 25.10.2016, the learned counsel has submitted that the petitioner was treated at par with all other candidates and after a fair assessment, the petitioner was found not even qualified to be empanelled in the list. It is submitted that the Physical Standard Test and Vision Test are eligibility factors and the actual selection is done through a selection consisting of written and *viva voce*. By producing the records pertaining to the said selection, the learned counsel has pointed out that the petitioner's case was duly considered and he had secured less marks in the written test and thereby the consolidated total marks was not enough to bring him within the empanelled list.

8. The learned counsel for the Corporation has also submitted that the challenge is not structured on any specific grounds and therefore, the same may not even be maintainable. He has highlighted the aspect that an unsuccessful candidate may not be allowed to challenge the selection process after he had participated in the same and had taken a chance. It is submitted that in absence of any illegalities which have been able to be demonstrated by the party approaching the Court, a Court would be loath in interfering with any selection matters which are done by experts.

9. Shri Islam, the learned counsel has relied upon a recent judgment of the Hon'ble Supreme Court reported in **(2023) 3 SCR 714 [Tajvir Singh Sodhi & Ors. Vs. The State of Jammu & Kashmir & Ors.]**. In the said case, there are adequate discussions on the aspect of interference by Courts in selection process for public employment. It has been reiterated that the decisions taken by the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection or proved *mala fides* affecting the selection.

10. It has also been laid down that the task of selection is the prerogative and within the expert domain of a selection committee and in absence of any proven violation of statutory rules or inherent arbitrariness, Court should not intervene. The aspect of unsuccessful candidates who had taken part in the selection without any demur or notice and later challenging the selection has also been highlighted.

11. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

12. The writ petition has been instituted challenging the non selection of the petitioner in the aforesaid post of Junior Assistant Rigman (Drilling) in which he had duly participated.

13. While the right to participation can be held to be recognized right, the claim to selection cannot be held to be a right of a candidate. The selection depends on the performance of the candidate. In the instant case, it appears that even in the category of OBC to which the petitioner belongs, there were a large numbers of candidates. It also appears from the materials on records that Physical Standard Test and Vision Test are only the eligibility factors and the

selection is ultimately dependent on the written and *viva voce*. The records of the selection which have been placed before this Court have been perused from which it appears that the petitioner could not fare well in the written test consisting of 60 marks in which he had secured 27.50 and in the interview consisting of 15 marks, he had secured 7.6 marks. The selection proceeding contains the signatures of the members and the Chairman and there is no apparent ambiguity or anomalies.

14. The only element where subjective satisfaction is there is the marks for the interview in which this Court, on a comparative assessment has found that the petitioner was given standard marks which cannot be said to be arbitrary in any manner. The aspect of a challenge to be held to be maintainable in absence of any specific grounds is also a relevant. In the instant case, no specific grounds of challenge has been taken in the petition. The marks obtained by the petitioner in the matriculation examination would not have a material bearing in the selection process which is done by a Committee of experts depending on the marks obtained in the written test and the *viva voce*.

15. Taking into consideration the facts and circumstances and the parameters laid down by the Hon'ble Supreme Court in a catena of judgments including the judgment referred above wherein the earlier cases have been duly discussed, this Court is of the opinion that no case for interference is made out and no relief can be granted to the petitioner. The petitioner is accordingly dismissed.

16. The copies of the minutes of the selection is made part of the records.

JUDGE

Comparing Assistant