

GAHC010197372024



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

Case No. : WA/335/2024

RITUMONI BORAH
S/O- SRI GHANAKANTA BORAH, RESIDENT OF VILL- SUTAR NAMKURI,
PART-II, P.O.- BORPANI, DIST.- NAGAON, ASSAM- 782141.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF HOME, DISPUR, GUWAHATI-
06.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
POLICE HEADQUARTERS
ULUBARI
GUWAHATI- 781007.

3:CHAIRMAN
STATE LEVEL POLICE RECRUITMENT BOARD
MADHABDEVPUR
REHABARI
GUWAHATI- 781008.

4:THE SUPERINTENDENT OF POLICE

OFFICE OF THE SUPERINTENDENT OF POLICE
NAGAON
ASSAM

Advocate for the Petitioner : MR. A K BARUAH, MR. H NATH,MR. R A PRAMANIK,MR. D
DEKA

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 25.09.2024
(Vijay Bishnoi, CJ)

Heard Mr. A. K. Baruah, learned counsel, appearing on behalf of the appellant. Also heard the learned Government Advocate, Assam, appearing on behalf of the Respondents.

This writ appeal is filed on behalf of the appellant being aggrieved with the order, dated 19.08.2024, passed in WP(c)3684/ 2024, whereby, the learned Single Judge has dismissed the said writ petition filed on behalf of the appellant, herein, and two other persons.

The facts set-up by the appellant before the learned Single Judge is to the effect that in connection with the recruitment of 145 nos. of Constables(GD) in the Assam Industrial Security Force from Special Police Officers(SPOs); the appellant, herein, has participated. However, he was not awarded the correct marks for the experience gained by him as a Special Police Officer(SPO) for the period, he worked.

The appellant has contended that he worked as a Special Police Officer(SPO) for a period of 5(five) years in the District of Kokrajhar, Assam, during the 2012 ethnic violence. However, the respondents have illegally awarded the appellant only 2(two) marks against such experience whereas as per the conditions of the advertisement, in question; he is entitled to get 2(two) marks, each, for every year, he worked as a Special Police Officer(SPO).

The specific case of the appellant before the learned Single Judge was that he is entitled for 10(ten) marks against the experience gained by him for the period, he worked as a Special Police Officer(SPO) in the District of Kokrajhar, Assam.

It is to be noticed that in the certificate submitted by the appellant, issued by the Superintendent of Police, Kokrajhar, Assam, it is only mentioned that he was engaged as a Special Police Officer(SPO) in the District of Kokrajhar, Assam, during 2012 ethnic problem, vide letters, dated 01.08.2012/30.07.2012. However, the period for which the appellant has worked as a Special Police Officer(SPO), has not been clarified.

In another batch of writ petitions; this Court has passed an order, dated 10.05.2024, and directed the respondents to award 2(two) marks to the candidates who have worked as Special Police Officers(SPOs) but the period of their working as Special Police Officers(SPOs), has not been clarified. This Court has, therefore, issued directions to complete the exercise of awarding bonus marks to the candidates who worked as Special Police Officers (SPOs) without any specification regarding their tenure within a period of 2(two) months.

Pursuant to the directions of the Court, the respondents have conducted the said exercise and found that the original marks awarded to the petitioners, therein, are not liable to be interfered with.

The learned Single Judge after taking into consideration, the above facts and circumstances of the case; has dismissed the writ petition filed by the

appellant, herein.

Mr. Baruah, learned counsel for the appellant, has submitted that in the writ petition filed before this Court; the appellant has made a categorical statement that he worked as a Special Police Officer(SPO) in the District of Kokrajhar, Assam, for a period of 5(five) years with effect from 2012.

It is contended that the said contention of the appellant, herein, has not been disputed or controverted by the respondents, therein, and in such circumstances; it is clear that the appellant has worked as a Special Police Officer(SPO) in the District of Kokrajhar, Assam, for a period of 5(five) years with effect from 2012.

Mr. Baruah, learned counsel, has placed reliance on a decision of the Hon'ble Supreme Court rendered in the case of ***Naseem Bano(Smt.) v. State of U.P. & ors.***, reported in ***1993 Supp(4) SCC 46*** and has argued that the Hon'ble Supreme Court had held that if the averments made in a writ petition, has not been controverted by the opposite side then the said averments are deemed to be admitted.

Mr. Baruah, learned counsel for the appellant, has, therefore, submitted that the learned Single Judge has erred in not taking into consideration, the above-noted facts situation and therefore, the impugned order passed by the learned Single in the said writ petition, is liable to be set aside and the writ petition filed before the learned Single Judge, deserves to be allowed and the reliefs prayed for in the said writ petition; are to be granted.

We have heard the learned counsels appearing for the parties and also perused the materials available on record.

It is true that the appellant, herein, in the writ petition, has made a specific averment that he worked as a Special Police Officer(SPO) in the District of Kokrajhar, Assam, for a period of 5(five) years, during 2012 ethnic problem. However, the date from which he worked as a Special Police Officer(SPO) and the date on which he was disengaged from the said engagement, has not been specified.

The averments of this effect made in the writ petition, are vague and therefore, we are of the opinion that even if though the said averments are not being specifically controverted; the same cannot be relied upon to rule that the appellant, herein, worked as a Special Police Officer(SPO) in the District of Kokrajhar, Assam, during 2012 ethnic problem, for a period of 5(five) years.

The appellant, herein, has to prove his case by producing the evidence to the effect that he worked as a Special Police Officer (SPO) for a continuous period of 5(five) years in the District of Kokrajhar, Assam, with effect from the year 2012.

In view of the above discussions; we do not find any merit in this writ appeal and the writ appeal is, therefore, dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant