

GAHC010197812013



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

Case No. : WP(C)/2449/2013

NIPUMONI KALITA
S/O- SRI LALIT CH. KALITA, VILL.- HOMARBARI, P.O.- BORONGTOLI, P.S.-
KHATOWAL, DIST.- NAGAON, ASSAM, PIN-

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECY.

2:THE COMMISSIONER OF HOME
GOVT. OF ASSAM.

3:THE DY. INSPECTOR GENERAL OF POLICE
C.C.V.D.O.
ASSAM
ULUBARI
GHY- 7.

4:THE SUPERINTENDENT OF POLICE
V.D.O.
NAGAON
ASSAM
PIN

Advocate for the Petitioner : MR.A K PURKAYASTHA

Advocate for the Respondent :

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

JUDGMENT

Date : 29-01-2024

Heard Mr. A. K. Purkayastha, learned counsel for the petitioner. Also heard Mr. D. Bora, learned junior Government Advocate for the respondents.

2. The petitioner being aggrieved by the action/inaction on the part of the respondent authorities in not appointing him as Circle Organizer, Village Defense Organization, (In short CO, VDO), Nagaon, in terms of the selection held for the said post in the year 2001 has instituted the present proceedings seeking a direction for his such appointment.

3. The petitioner had submitted his candidature for being considered against the post of CO, VDO, Nagaon and accordingly had appeared in the written test and interview conducted for the said post on 25.08.2001 and 02.09.2001. On conclusion of the said selection process a panel list was prepared and the same was forwarded to the Chief Controller, Village Defense Organization (In short CC, VDO), Assam, Guwahati by the District authorities on 14.09.2001 for approval. It is the contention of the petitioner that in terms of the selection process made in various districts, order(s) of appointment came to be issued to the candidates across the State of Assam, but in respect of the district of Nagaon, no such appointment came to be effected. It is the case of the petitioner that he having participated in a selection process and on selection having been included in the panel thereto, his case should have been considered for appointment in terms of his merit

against the post in question and the respondent authorities having not done so and or cancelled the select list prepared, a vested right has accrued to the petitioner for being appointed as the CO, VDO, Nagaon.

4. I have heard Mr. A. K. Purkayastha, learned counsel for the petitioner, who by reiterating the facts narrated hereinabove has submitted that the select list as prepared still continues to be valid and vacancies being available against the post of CO, VDO, Nagaon, the case of the petitioner is required to be considered against such vacancies. Mr. Purkayastha, learned counsel for the petitioner has further submitted that in Nagaon district a vacancy with regard to the post of CO, VDO, Nagaon had arisen on 31.05.2010 on retirement of one Bakul Sharma from the said post. Accordingly, it is prayed that the panel list as prepared in the year 2001, wherein, the name of the petitioner figures has to be now implemented towards filling up of the said post of CO, VDO, Nagaon, becoming available on 31.05.2010.

5. Mr. D. Bora, learned Junior Government appearing for the respondents by referring to the affidavits filed in the matter has submitted that although the selection process was also initiated for the district of Nagaon for recruitment against the post of CO, VDO, Nagaon, the said selection process could not be taken to its logical conclusion on account of non-availability of vacant post at that point of time in the district of Nagaon.

6. It is submitted by Mr. Bora, learned counsel that the selection process as held in the year 2001 were for the vacancies available at that relevant

point of time. It was also contended that no assurance was given to the petitioner for his appointment as CO, VDO, Nagaon. The panel list having been prepared only for vacancies existing and/or arising during the year 2001, the same cannot be utilized for the vacancy that has arisen in the district of Nagaon for the post of CO, VDO, Nagaon, in the year 2010. It is further submitted that for the existing vacancies available a fresh selection process would be initiated and an eligible person would be recruited against the said post in pursuance thereof.

7. I have considered the submissions so advanced by the learned counsel for the parties and also perused the materials available on the record.

8. It is a fact that the respondent authorities had initiated a selection process in the year 2001, for recruitment against the posts of CO, VDO, across the State of Assam including a post of CO, VDO, in the district of Nagaon. The petitioner had participated in the said selection process and on conclusion of the said selection process, the name of the petitioner was included in the panel list prepared and the said panel list was forwarded on 14.09.2001 to the CC, VDO, Guwahati for approval. The CC, VDO, Guwahati had not accorded approval to the select list as forwarded to him on 14.09.2001, by the district, authorities of Nagaon district only on account of the fact that there were no vacancies available at the relevant point of time in the district of Nagaon.

9. The contentions of the respondent authorities that there were no

vacancies in the district of Nagaon against the post of CO, VDO at that relevant point of time i.e., in the year 2001 has not been disputed by the petitioner. The selection process being so initiated for vacancies that would be existing and/or would have arisen proximate to the time of the said selection process in the year 2001 can only be limited to such vacancies only. The said selection process cannot be treated as a reservoir for filling up of future vacancies arising against the said post. It is the categorical stand of the respondents that no vacancy has arisen in the district of Nagaon against the post of CO, VDO from the year 2001 till the year 2010 and the vacancy in the said post has arisen only on 31.05.2010, when one Bakul Sharma, working as CO, VDO, Nagaon, had retired from his services on reaching the age of superannuation.

10. In view of the said position, the panel as prepared by the district authorities of Nagaon district and forwarded to the CC, VDO, Guwahati on 14.09.2001, cannot be said to be subsisting so as to also cover the vacancies arising in the year 2010 inasmuch as it is clear that the said recruitment process was limited to the existing vacancies and/or of vacancies that would have arisen within the year of 2001 only.

11. The contention of the petitioner that the panel as prepared by the district authorities for the post of CO, VDO, Nagaon in the year 2001, continues to subsists even after lapse of around 13 years, cannot be accepted. The said panel cannot be construed to be one prepared for vacancies that would arise in the year 2010 and/or thereafter.

12. The petitioner has in his pleadings has not brought on record any materials to substantiate his contention that there were vacancies available in the post of CO, VDO, Nagaon in the year 2001. Further, the petitioner not having disputed the fact that he was placed in the 3rd position in the panel so prepared in pursuance to the selection process held in 2001, for appointment of the petitioner there has to be at least 3 vacant post existing and/or arising during the year 2001, which admittedly did not occasion.

13. The pleadings as brought on record by the parties, reveals that the first vacancy in the district of Nagaon had occasioned in the year 2010 only and thereafter another vacancy had occasioned in the year 2012. The said vacancies admittedly cannot be filled up in terms of the selection held in the year 2001. The vacancies as becoming available in the year 2010 and 2012, if not filled up through a fresh selection process, has to be filled up by initiating a selection process by affording opportunity to candidates becoming eligible for the same.

14. In view of the conclusions reached, it is held that no vested right has accrued to the petitioner for being appointed against the post of CO, VDO, Nagaon in pursuance to the recruitment process held in the year 2001 inasmuch as there were no vacancies available against which the said panel prepared could have been operated. It is settled law that mere inclusion of the name of a candidate in a panel does not confer upon him any vested right for appointment against the post(s) for which such panel was prepared. Moreover, the petitioner being placed at merit position no. 3 in the panel so prepared, it is required that there should be at least 3 posts available as of

2001 for the petitioner's case for such appointment to be considered and as of 2001. It is an admitted position that there were no vacancies available leaving aside the question of there being 3 vacancies available against the post of CO, VDO, Nagaon as of 2001 and as such by mere inclusion in the panel prepared, the petitioner, in absence of any clear vacancies, cannot claim for his appointment as CO, VDO, Nagaon.

15. In view of the said conclusions reached, the contention raised by the petitioner does not merit acceptance and the same are rejected.

16. The writ petition, accordingly, is without any merit and stands dismissed. However, there being no order as to costs.

JUDGE

Comparing Assistant