

GAHC010228872018



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

Case No. : WP(C)/7431/2018

HIMANI BASUMATARY AND ANR.

D/O- SRI MATHURA KANTA BASUMATARY, BALAJAN PHC HOSPITAL
QUARTER, P.O. HOLTUGAON, PIN- 783370, DIST- KOKRAJHAR (BTAD),
ASSAM

2: SRI ASHOK KUMAR DUTTA
S/O- SRI SANTOSH KUMAR DUTTA
R/O- WARD NO 4
VIVEKANANDA PALLY TOWN
P.O. AND P.S. BASUGAON
DIST- CHIRANG (BTAD)
ASSAM
PIN- 78337

VERSUS

THE STATE OF ASSAM AND 3 ORS.
THROUGH THE COMM. AND SECY. TO THE GOVT. OF ASSAM, WPT AND
BC DEPTT., DISPUR, GHY-6, PIN- 783370

2:THE BODOLAND TERRITORIAL COUNCIL
REP. BY THE JOINT SECY.
BTC
KOKRAJHAR
PIN- 783370
ASSAM

3:THE PRINCIPAL SECY.
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN- 783370

4:THE MEMBER SECY.
CENTRAL SELECTION BOARD

BTC
KOKRAJHAR
P.O. KOKRAJHAR
DIST- KOKRAJHAR
ASSAM
PIN- 78337

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : SC, BTC

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 16-02-2024

1. Heard Mr. B. D. Das learned senior counsel assisted by Ms. R Deka, learned counsel for the petitioners. Also heard Mr. B Chowdhury learned counsel for the respondent.
2. The petitioners earlier participated in a selection process pertaining to the post of Senior Assistant under the Directorate of PNRD, BTC Kokrajhar pursuant to a notification of selection dated 24.01.2014 for a walk in interview. When the petitioners were not selected to the aforesaid post, they approached this court by filing a writ petition being WP(C) No.6242/2015.
3. This court while deciding the aforesaid writ petition passed an order granting liberty to the BTC authority to issue appropriate orders to the petitioners.
4. A common order dated 25.05.2016 reflects that a statement was made by the petitioner's counsel in WP(C) No.1001/2015, WP(C) 6242/2015 and WP(C) 7259/2015 that due to pendency of WP(C) No.5976/2014 the appointment orders could not be issued to the

petitioners. A submission was further made that as the WP(C) No.5976/2014 has in the meantime withdrawn, there is no impediment for the respondent authorities to issue appointment orders to the petitioners of WP(C) No.1001/2015, WP(C) No.6242/2015 and WP(C) No.7259/2015.

5. In the aforesaid backdrop this court closed all the aforesaid writ petitions with a liberty to issue appropriate appointment order in respect of the petitioners in the aforesaid three writ petitions and accordingly the writ petitions were closed being infructuous.

6. Subsequently by order dated 17.07.2017 the BTC authority refused to issue appointment to the petitioners in WP(C) No.6242/2015 i.e, the present petitioners.

7. Being aggrieved, the present writ petition has been filed.

8. The basic ground of refusal to such appointment by the respondent authorities, BTC is that there was glaring mistake in the advertisement dated 24.01.2014, so far the same relates to filing up the post of Senior Assistant under the Directorate of PNRD Department, BTC inasmuch as on the ground that they want to go for a fresh selection.

9. It was the case of the BTC that there was a glaring mistake in the advertisement so far relating to the educational qualification and experience to the effect that the post of Senior Assistant was to be filled up and an experience of 10 years as Senior Assistant under BTC was sought for and the same was a mistake in fact that ought to have been a Junior Assistant.

10. The further case of the BTC as reflected in the impugned

order is that so far relating to the post of UDA the advertisement prescribed for 10 years working experience as Junior Assistant/LDA in any establishment of government/semi government offices, however, experience in government office are only the requirement and accordingly it was decided that a fresh selection process will be carried out. The aforesaid order is under challenge.

11. It is seen from the record that the selection was on the basis of an walk in interview and the competent authority/employer has decided to go for a fresh selection and changing the essential qualification. It is well settled that inclusion of name in the select list shall not confer any indefeasible right for appointment and the employer state can very well withdraw such selection process for sufficient reasons.

12. In the present case the reason shown in the considered opinion of this court are sufficient inasmuch as the government is within its jurisdiction to have the best possible worker by modifying the experience inasmuch as the reasons shown in the considered opinion can be a valid ground for cancellation of the select list.

13. If under the fresh selection the petitioners still want to participate, the competent authority of the BTC may consider relaxation of their age in terms of extent norms.

14. In the aforesaid backdrop, this court finds no merit in the present writ petition and accordingly the same stands dismissed.

JUDGE