

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.47 OF 2009***

1. Shri Ramesh N. Gaonkar,
resident of House No.369,
Talem, Gaondongarim,
Canacona – Goa.
2. Shri Umesh Tolu Gaonkar,
resident of House No.75,
Yeda Cotigao, Canacona Goa. ... Petitioners

Versus

1. The Commissioner of Excise,
Government of Goa,
Panaji Goa.
2. State of Goa,
Through its Chief Secretary,
having Office at Secretariat,
Porvorim, Bardez Goa.
3. Onu Rama Gaude,
resident of House No.540,
Carambolim, Old Goa,
Ilhas Goa.
4. Mukund Gauns,
resident of Zaribhat,
Pillar, Goa Velha,
Ilhas Goa. ... Respondents

Mr. P. Sawant, Advocate for the Petitioners.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 11 October 2018.

Oral Judgment (Per N. M. Jamdar, J)

By this petition, the Petitioners have sought a direction to the Commissioner of Excise and the State of Goa to appoint the Petitioners to the post of Excise Inspectors in the reserved category pursuant to the selection process completed in March 2007. The Petitioners have also sought to set aside the appointments of the Respondent Nos.3 and 4 made pursuant to the advertisement dated 22 January 2008.

2. The Respondent- Department had prepared a select list for 16 posts of the Excise Inspectors, which was advertised on 17 December 2005 and it was readvertised on 22 February 2007. 16 candidates were selected for the said posts and 11 candidates were kept on waiting list. The select list was valid up to March 2008. Five posts were subject matter of the petition, had lapsed. That is, two had lapsed in November 2004, one in January 2005, one in March 2005 and one in October 2005. The proposal for the revival of the posts was under consideration of the State Government. The posts were revived in May

2008. Prior to that on 22 January 2008, an advertisement was issued. The Petitioners had applied for the said posts on 5 February 2008 and participated in the selection process. The Petitioners did not succeed. Pursuant to the selection list the Respondent Nos.3 and 4 were appointed on the temporary basis as Excise Inspectors. It is the contention of the Petitioners that the Petitioners should have been appointed against the vacancies which are in violation of the Office Memorandum dated 13 June 2000 and the Petitioners had right to be considered even for the subsequent selection process.

3. This contention is opposed by the Respondents on the ground that the Petitioners were only kept on select list which had one year duration. Once the vacancies were filled up pursuant to the recruitment process, the selection list came to an end and for the subsequent advertisement the Petitioners had no right.

4. In identical facts and circumstances, a decision is rendered in the case of *Shri John A. Fernandes & Anr. Vs The Secretary (Transport), Govt. of Goa & Ors.*¹ taking a view that the rights of the candidates were kept on select list to be considered for appointment is only in respect of the posts that are advertised and once they are filled

¹ WP No.324 of 2011 dated 6 June 2018

up the select list will come to an end and the candidates on the waiting list do not have vested right to be considered for the posts which were never advertised when their selection took place. The view taken in the said case squarely applies to the facts of the present case. Further, the selection process is of the year 2007. The Respondent Nos.3 and 4 have been appointed in the year 2008 and are waiting for last ten years.

5. No relief can be granted to the Petitioners. The writ petition is dismissed. Rule is discharged. No order as to costs.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.