

WP(C) 4009/2005

BEFORE

HON'BLE SMT JUSTICE ANIMA HAZARIKA

Heard Mr AM Mazumdar, learned Sr counsel assisted by Mr S Deka, learned counsel for the petitioner. Also heard Mr BC Saikia, learned Addl Sr Govt Advocate, Assam.

2. The facts in short for disposing of the writ petition is that petitioner, herein, is a graduate from the Dibrugarh University and has also successfully completed a Commando Course on Terrorism and Anti/Counter Terrorist Operation at the National Security Guard Training Centre, Manesar, Haryana. He is also an accomplished sportsman, having participated in many competitions at the state and national level.

3. In response to an advertisement, published on 6.9.97, inviting applications for the post of Sub-Inspector of Police under the department of Home, petitioner applied for the same and appeared for the written test alongwith others and performed satisfactorily. He being selected in the aforesaid written test was invited for the interview, which was scheduled to be held on 4.6.99. In the said call letter, it was stated that in case, the candidate is selected for the interview he would be called for the physical test for final selection. Pursuant to the aforesaid call letter, petitioner duly appeared in the interview held on 4.6.99, wherein he performed well and was waiting for announcement of the result. But from a news item published on 13.1.01 in the Asomiya Pratidin, an Assamese daily news paper, petitioner came to know that 84 persons were going to be appointed as Sub-Inspector of Police in pursuance to the advertisement dated 6.9.97.

Being aggrieved, the petitioner alongwith thirty others approached this Court by filing a writ petition being WP(C) No.4839/02. This Court vide order dated 31.7.03 disposed of the same with a direction to the respondent authorities to consider the case of the petitioners in accordance with the provisions of the Recruitment rules against available vacancies. The order dated 31.7.03 is quoted hereinbelow:

31.7.2003

BEFORE

THE HON'BLE MR JUSTICE D BISWAS

Heard Mr. AM Mazumdar, learned Senior Counsel for the petitioners and also heard Mrs Dey, learned State Counsel.

This petition has been filed by the writ petitioners numbering thirty one claiming appropriate direction for their appointment as Sub-Inspector of Police on the ground that they have been selected and empanelled by the Competent authority in the Select list prepared in pursuance of the advertisement published on 6.9.1997. Their case is that they had appeared in the interview held on 26.4.1998 and they were waiting for announcement of the result thereof. But surprisingly, they have come to know from the Newspaper publication issued on 30th of January, 2001, that 84 persons were going to be appointed as Sub-Inspector of Police in pursuance of the said advertisement. Hence, they approached this Court for appropriate direction for consideration of their case for appointment.

The state has not filed any affidavit in this petition. Therefore, the claim of the writ petitioner that they were interviewed and selected remains uncontroverted. Situated thus, this petition is disposed of with a direction to the respondents to examine the claim of the writ petitioners and if it is found that they were duly empanelled in the select list prepared in pursuance of the advertisement issued in 1997 and, if the list is still in force, their case shall be considered in accordance with the provisions of the Recruitment Rules against available vacancies and appropriate orders be passed for their appointment only against the number of post advertised in the year 1997. The interim order passed on 16.8.2002 is merged with this order.

4. Thereafter, the petitioner alongwith 7 other writ petitioners in the aforesaid writ petition submitted a representation before Respondent No.1 annexing a copy of the order dated 31.7.03 thereon whereby they requested the Respondent No.1 for consideration of their case for appointment against the existing vacancies as per Recruitment Rules. Pursuant to the representation so submitted on 22.9.03, Respondent No.1 forwarded their application to the Respondent No.3, the Deputy Inspector General of Police alongwith a copy of the order dated 31.7.03 asking him to take necessary action including the submission of the para-wise reply of the representation. Despite the aforesaid representation and direction issued thereon, nothing has been done in order to give appointment to the petitioner in the existing vacant post of Sub-Inspector in compliance with the Court's order dated 31.7.03 and hence, the instant writ petition.

5. Mr Mazumdar, learned Senior counsel appearing for the petitioner has strenuously urged that as per relevant rules there is provision for recruiting a person in the post of Sub-Inspector by considering his ability and experience which has already been gathered by the petitioner in the instant case. Learned Sr counsel has further submitted that earlier in several occasions, appointments in the post of Sub-Inspector of Police have been made in respect of the persons possessing special qualifications like the petitioner as per rules in vogue. In the instant case, petitioner has twice cleared the written test for the post of Sub-Inspector of Police but, subsequently, he was deprived of getting appointment due to some extraneous consideration on the part of the respondent authorities. Learned Sr. counsel, therefore, submits that the petitioner's case deserves to be considered for appointment in the post of Sub-Inspector of Police as per rules, more so, petitioner's experience as Constable in the Assam Police for more than 10 (ten) years and the special training which the petitioner has completed at the National Security Guard Training School makes him eminently suitable for appointment as Sub-Inspector of Police. Learned Sr counsel thus submits that the respondent authorities may be directed to consider the case of the petitioner for appointment as Sub-Inspector of Police under the appropriate provisions of the Rules, inasmuch as, the petitioner is legitimately expecting that his case shall be considered by the respondent authorities as has been considered in similar cases in the past.

6. No affidavit-in-opposition has been filed on behalf of the respondent authorities. However, Mr BC Saikia, learned Addl Sr Govt. Advocate has fairly submitted that petitioner's case will be considered as per relevant provisions of Rules.

7. Considered the submission so made by the learned counsel appearing for the parties and also perused the materials on record. In view of the submission so made, the respondent authorities, particularly, Respondent No.2 is directed to consider the case of the petitioner as per relevant provisions of Rules in vogue. Petitioner shall submit a fresh representation alongwith a certified copy of this order and a copy of the writ petition with the annexures appended thereto before Respondent No.2, the Director General of Police, Assam who shall dispose of the representation within a period of 3 (three) months from the date of receipt of the same.

8. It is needless to say that any order passed to that effect shall be communicated to the petitioner.

9. The writ petition is accordingly disposed of.

10. No costs.