

Ranjan Gogoi, J

Heard Mr BD Goswami, learned counsel for the petitioner and Mr R K Adhikary, learned Govt. Advocate, Assam.

2. Though by order dated 22.6.2010 affidavit of the respondents was directed to be filed, no such affidavit has been filed till date. Having regard to the issues involved in the writ petition, we are of the view that the disposal of this case cannot indefinitely await the filing of the affidavit by the respondents. Accordingly, we have perused the records in original as placed before us by the learned Govt. Advocate. We have also considered the parawise comments submitted to the Court by the present District & Sessions Judge, Lakhimpur. On such basis we are proceeding to pass final orders in the writ petition.

3. The writ petitioner along with thirty six other candidates took part in a selection for appointment in the post of LDA-cum-Typist in the establishment of the District Legal Services Authority, Lakhimpur, the advertisement for which was issued sometime in the year 2003. Another post of Peon (Grade-IV) was also advertised. All the candidates who had applied pursuant to the advertisement issued took part in a written test and thirteen of them qualified for the next segment of the selection process which consisted of a typing test and oral interview. On the basis of the typing test and oral interviews conducted, six candidates were short-listed and the said merit list was forwarded to the Secretary of the Legislative Department for obtaining approval of the empowered committee which was, at that time, the competent authority to grant approval for appointment by direct recruitment. Around this time, several complaints were made to the Secretary of the Legislative Department with regard to the anomalies in the selection held for the post in question. The competent authority, therefore, thought it proper to obtain the comments/ views of the successor District & Sessions Judge, Lakhimpur who also functions as the President of the District Legal Services Authority. The successor District Judge submitted a report stating that the interviews were conducted by the then District Judge without constituting a Selection/ Interview Board as mandated by the norms in force. Beyond the above no other view was offered. However, the answerscripts of the thirty seven candidates who had appeared in the written test for the post of LDA-cum-Typist were forwarded by the learned District Judge. The competent authority in the Legislative Department on scrutiny of the answerscripts found that the writ petitioner who was placed at serial No.1 of the merit list had actually secured 22 marks and that by subsequent addition of marks against each question a total of 35 marks was awarded to him. The interview was also conducted by the District Judge himself. It is on the said basis that the name of the petitioner appeared at serial No.1 of the merit list. The matter was brought to the notice of the Minister, Law who on 21.5.2005 directed that fresh interviews should be held. The District Judge, Lakhimpur was accordingly informed and requested to do the needful. However, in view of the interim order of this Court dated 2.9.2005 to the effect that selection, if made, will be subject to the decision of the Court in the present writ petition, the fresh round of selection stood deferred. The aforesaid stalemate continues till date.

4. Having perused the records in original placed before us by the learned Govt. Advocate, we are left with no doubt in our minds that the manner in which the selection was conducted and the writ petitioner was placed at serial No.1 of the merit list, does not entitle him to any order from the Court for appointment. Not only were the marks secured by the petitioner in the written test artificially inflated, the interview that he faced was conducted by a single per

son which is against the norms in force. That apart, scrutiny of the records would go to show that though the answerscripts of all the thirty seven candidates were re-evaluated by a Judicial Magistrate, alterations in the marks of the writ petitioner were made by a District Judge.

5. In the aforesaid facts, the competent authority in the State Government had directed that fresh interviews should be held. The expression interviews has to be understood as a repetition of the entire selection process starting from the written test. The question that confronts the Court is whether the aforesaid decision of the competent authority in the State Government should now be directed to be given effect to.

6. The advertisement for the post was issued in the year 2003. Seven years have rolled by. Many other persons must have become eligible in the meantime. Confining the fresh selection to the candidates who had already applied i.e. the thirty seven candidates may affect the rights of the other eligible persons under Article 14 and 16 of the Constitution. We are, therefore, of the view that instead of giving effect to the direction for holding a fresh selection which was held in the year 2005 amongst the candidates who had already applied, it would be just and proper if the post of LDA-cum-Typist in the establishment of the learned District & Sessions Judge, Lakhimur is directed to be re-advertised and, thereafter, fresh selection held in accordance with law and the norms in force. Such advertisement will now be issued without any delay. We are not oblivious of the fact that the writ petitioner and other thirty six candidates who had applied or at least some of them may have become over-aged in the meantime. We, therefore, direct that all such candidates who had taken part in the earlier selection process be granted relaxation of their upper age limit if any of them have in the meantime have become over-aged for Government service. We further direct that the selection be held and consequential appointment be made expeditiously and without any delay as the post has been lying vacant for long.

7. We also direct that in the event the post of Peon (Grade-IV) which was advertised along with the post of LDA-cum-Typist has not been filled up in the meantime, the directions contained in the present order shall apply to the said post also.

8. This will dispose of the writ petition.