

WP(C) 4069/2010

BEFORE

THE HON'BLE MR JUSTICE A.K. GOSWAMI

Heard Mr. D.C. KathHazarika, learned counsel for the petitioner. Also heard Mr R .K. Adhikari, learned Govt. counsel appearing for the respondents No. 1,3,5,6,7, 8,9,10 and 13, Mr. B. Gogoi, learned Standing counsel, Finance Department, for the respondents No. 2 and 4 and Mr. P.K. Tiwari, learned counsel for the respondents No. 11,12 and 14.

By this application, the petitioner has prayed for quashing of the communication dated 30.3.10 issued by the respondent No.12 i.e., the Deputy Secretary, N.C. Hills Autonomous Council, Haflong as well as the order dated 31.3.10 issued by the respondent No.14 i.e., the Additional Director of Industries & Commerce, N.C. Hills, Haflong. The petitioner has further prayed for a direction to the respondent authorities to appoint him in the Gr.IV post on compassionate ground in terms of the recommendation of the District Level Committee Meeting held on 18.04.07 and approved by the State Level Committee in its meeting dated 12.9.08.

The petitioner, whose father was working under the respondent No.14 in a permanent post for a period of 20 years as Grade IV Peon, died-in-harness on 16.11.01.

The petitioner had filed an application praying for compassionate appointment. There was inordinate delay in considering his application for compassionate appointment. However, the District Level Committee, in its meeting dated 18.4.07, recommended the case of the petitioner for appointment as Grade IV employee. The said recommendation was forwarded to the State Level Committee and the State Level Committee, in its meeting dated 12.09.08, recommended for appointment of the petitioner on compassionate ground. Though not very clear why, it appears that the case of the petitioner for being appointed was once again considered and recommended by the State Level Committee in its meeting dated 9.3.09 (Annexure-N to the writ petition). The Finance (SIU) Department, vide their letter No. FSI-458/2009 dated 11.11.09, approved 9 (nine) numbers of selected persons and the list of such persons were indicated in the letter dated 12.11.09 issued by the Under Secretary to Government of Assam, Industries & Commerce Department which was addressed to the Director, Industries & Commerce, Assam. All the formalities had been completed and there should have been no impediment for the appointment of the petitioner on compassionate ground. However, the letters dated 30.3.10 and 31.3.10, which are annexed in this present petition, came in the way of appointment of the petitioner on compassionate ground. By the letter dated 30.3.10, the respondent No.14, was directed by the respondent No.12 to instruct the petitioner to furnish documents to prove his status of being an indigenous permanent resident of the district. Such instruction resulted in issuance of letter dated 31.3.10 by the respondent No.14 requiring the petitioner to furnish the proof as sought for in the letter dated 30.3.10.

Mr. KathHazarika, learned counsel appearing for the petitioner submits that the documents, as sought for by the authorities, are wholly irrelevant for the purpose of appointment of the petitioner and are, on the face of it, arbitrary and illegal. He contends that Annexure P and Annexure Q dated 30.3.10 and 31.3.10 respectively, cannot stand the scrutiny of this court.

Mr. P.K. Tiwari, learned counsel appearing for the respondent Nos.11,12 and 14 does not seek to defend the orders dated 30.3.10 and 31.3.10, and rightly so.

The appointment of the petitioner having been approved by the State Level Committee and necessary approval of the Finance (SIU) department, having also been obtained, there should have been no occasion to require the petitioner to furnish any additional proof. The appointment of the petitioner was not contingent upon his being an indigenous and permanent resident of N.C. Hills district. Therefore, requiring the petitioner to furnish such document is uncalled for. In the estimation of the court, the orders dated 30.3.10 and 31.3.10, are issued without any

basis. Further, the said authorities do not have any jurisdiction to ask for the documents as required by them in their letters mentioned above, having regard to the fact that the selection and consideration of the case of the petitioner for appointment was complete and final.

That being the position, the orders dated 30.3.10 and 31.3.10 passed by the respondents No. 12 and 14 are set aside and quashed. The authorities of the Council and more particularly, the respondent Nos. 11, 12 and 14 are directed to do the needful in terms of the recommendation made for appointment of the petitioner on compassionate ground without any further delay and preferably within a period of two months from to-day.

This disposes of the writ application.