

WP(C) 6244/2006
BEFORE
THE HON'BLE MR JUSTICE B. K. SHARMA

JUDGEMENT AND ORDER (ORAL)

Heard Mr. U. Das, learned counsel appearing for the petitioner as well as Mr. S. Bora, learned Counsel representing the respondent No.5. I have also heard Ms. A.B. Kayastha, learned counsel, holding for Mr. R. Dubey, learned Counsel representing the respondent No.3.

2. By means of this writ petition, the petitioner has called in question the appointment of the respondent No.5 as Peon-cum-Chowkidar in the establishment of the Deputy Commissioner of Taxes, Guwahati Zone-A. He was so appointed by order dated 22.8.2005.

3. According to the petitioner, since he was serving in the said establishment, he ought to have been given preference and/ or weightage in the matter of selection and appointment. In this connection, the petitioner has referred to order dated 20.6.2003 passed by this Court in WP(C) No. 4767/2003, by which it was provided that in case of any future employment, the case of the petitioner should be considered by the respondents and due weightage might also be given for the services he had rendered in the said establishment.

4. Two fold grounds on which the petitioner has challenged the appointment of respondent No.5, is that in the selection, the petitioner was not given due weightage and that the respondent No.5 having not been sponsored by the Employment Exchange, he could not have been allowed to appear in the interview with eventual selection.

5. In the counter affidavit filed by the official and private respondents, the aforesaid pleas have been denied. It has been stated that in the selection conducted for the aforesaid post, the respondent No.5 did very well and he had topped the list. According to the respondents, the petitioner could not do well in the selection and accordingly could not be selected, so as to come within the zone of consideration for appointment. As regards the direction for providing due weightage to the experience, there is some amount of confusion. As against the claim of the petitioner that he had earlier worked in the establishment of respondent No.3, the respondents in their counter affidavit have stated that the petitioner did not render any valid service and consequently there is no question of granting any weightage.

6. As regards the plea of the petitioner that the respondent No.5 could not have been allowed to sit in the interview / selection as his name was not sponsored, it is the stand of the respondents that his name was very much sponsored. However, the petitioner disputed the same by referring to the sponsorship letter which speaks of consideration of the case of the petitioner against grade-III post.

7. Mr. Bora, learned counsel appearing for respondent No.5 submits that the respondent No.5 was invited for selection. He has referred to the Annexure-H letter dated 8.7.04 annexed to the writ petition, by which the name of the respondent No.5 was forwarded for consideration against Grade-IV post.

8. Irrespective of sponsoring the candidates, an eligible candidate although is not sponsored by the Employment Exchange, is entitled to offer candidature. It has been held by the Apex Court in number of decisions that confining the candidatures only in respect of Employment Exchange sponsored candidates, deprives many eligible candidates and there should be wide publicity in the matter of di

rect recruitment.

9. If the respondent No.5 was found suitable for appointment, no fault can be attributed to the respondents in selecting him. Merely because there was a direction from this Court to consider granting weightage of the past services rendered by the petitioner, he cannot claim automatic appointment de hors the recruitment rules and selection.

10. In view of the above, there is no infirmity in the impugned order dated 22.08.2005 and cannot be interfered with. However, I hasten to add that in case of any future employment in the establishment of the respondent No.3 (Commissioner of Taxes, Assam), the case of the petitioner may be considered along with other eligible candidates in accordance with the recruitment rules and keeping in mind the observations made by this Court in the earlier round of litigation.

11 With the above observations, the writ petition stands disposed of, without however, any order as to costs.