

WP(C) 590/2012

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Heard Mr. PJ Phukan, learned counsel for the petitioners and Mr. M. Biswas, the learned counsel for the private respondents.

Learned counsel appearing on behalf of the petitioners submits that the writ petitioners and the private respondents took part in the selection process for appointment for the posts of Stenographer Grade-III on the basis of advertisement dated 27.2.2008 issued by the Deputy Commissioner, Dhemaji. The private respondents were selected for appointment to the posts. Being aggrieved, the petitioners filed W.P.(C)No.3197/2008 challenging private respondents' selection on the ground that the private respondents did not have the required National Trade Certificate in Stenography (English) from the Industrial Training Institute in Assam, which is required as per the relevant recruitment Rules. The petitioners also submit that W.P.(C)No.3197/2008 was disposed of by this Court vide order dated 16.6.2011 with the following directions:

All the above aspects of the matter will require consideration of the Commissioner & Secretary to the Government of Assam in the General Administration (B) Department. Accordingly, this writ petition is disposed of directing the said authority to examine the matter in the light of the discussions made above and the materials available on record and to pass appropriate orders as may be expedient in law. While taking action in terms of this order, the authority may also consider whether in the meantime, the two respondents have acquired the required qualification and/or whether they should be given opportunity to acquire the same.

Thereafter, the Deputy Secretary to the Govt. of Assam, General Administration Department wrote a letter dated 16.12.2011 to the Deputy Commissioner, Dhemaji, which is to the following effect:

With reference to your letter cited above, I am directed to say that in pursuance of the Hon'ble Gauhati High Court order dated 16/6/2011 and considering the services already rendered by both of them, the respondents No. 5 & 6 namely, Mrs. Bornali Dutta Changmai and Ms. Mauchumi Deka may be given an opportunity for acquiring requisite qualification within time frame for the post of Stenographer Grade-III as envisaged and prescribed in schedule -I part -A (Rule-8) Assam Stenographers Service Rules, 1995.

Petitioners' counsel submits that the letter dated 16.12.2011 written by the Deputy Secretary to the Govt. of Assam, GAD, is not in compliance with the order dated 16.6.2011 passed in W.P.(C)No.3197/2008. He submits that the Commissioner & Secretary to the Govt. of Assam in the General Administration Department has to pass the order in compliance with the direction of this Court passed in W.P.(C)No. 3197/2008 and not by the Deputy Secretary in the Department.

Mr. M. Biswas, learned counsel for the private respondent Nos. 5 & 7 submits that the respondents have been working approximately for 8 years and it would be best that the petitioners' services are not disturbed at this stage. Learned counsel for the respondent Nos. 6 & 7 also submits that as per the observation made by this Court in W.P.(C)No.3197/2008, the respondent Nos. 6 & 7 have been given the opportunity for acquiring the requisite qualification and the same was acquired by the respondent No.6 and by the respondent No.7 on 31.7.2014 respectively. Learned counsel for the private respondents also submits that the order dated 16.6.2011 passed in W.P.(C)No.3197/2008 has attained its finality as the same has not been challenged by way of appeal.

I have heard the learned counsel for the parties. The order dated

ed 16.6.2011 passed in W.P.(C)No.3197/2008 has clearly spelt out the various points that the respondent No.2 has to consider while examining the case of the respondent Nos. 6 & 7. However, on perusal of the order dated 16.12.2011 passed by the Deputy Secretary to the Govt. of Assam, GAD, I find that the issues raised by this Court in the earlier writ petition has not been considered and no findings have been made in that aspect. Accordingly, I find the letter dated 16.12.2011 (Annexure-11) is cryptic. The said letter dated 16.12.2011 is accordingly set aside. The respondent No.2 is directed to consider all the points raised by this Court in its order dated 16.6.2011 passed in W.P.(C)No.3197/2008 and come to a finding by giving reason(s). The respondent No.2 will thereafter take a decision on the selection and appointment of the private respondents. The entire exercise shall be carried out within a period of 6(six) weeks from the date of receipt of a certified copy of this order.

The writ petition is accordingly disposed of.