

Supreme Court of India

Pradip Gogoi And Ors. vs State Of Assam And Ors. on 26 February, 1996

Equivalent citations: (1998) 8 SCC 726

Bench: K Ramaswamy, G Pattanaik

ORDER

1. It is distressing to note a common feature that after making advertisement and recruitment conducted, the vacancies that arose thereafter though existing, no action was being taken to have them notified through the Public Service Commission and recruitment made so that all the eligible candidates would have opportunity to apply for recruitment as per the rules and their claim considered. The story is repeated in this case. Though advertisement was made in 1991, on 19-11-1993, after select list was prepared, appointments were made, but vacancies existing thereafter could not be filled in. Consequentially people, including the petitioners, had approached the High Court for their appointment. The High Court, following the judgment of this Court reported in *State of Bihar v. Secretariat Asstt. Successful Examinees Union 1986*, has directed to fill up the vacancies existing up to the date of recommendation by the Public Service Commission from the waiting list. Preparation of waiting list became a spinning ground for corruption and denial of constitutional right to equality to eligible candidates awaiting recruitment. It has become an endemic spectacle to witness. It is settled law that even an eligible candidate has a fundamental right to lay his claim for consideration in his own right for recruitment to an office or post under the State under Article 16(1) of the Constitution. The process of selection not being taking place due to non-notification by the appropriate authority, is having a deleterious effect on the psyche of the people. The dereliction of duty is seriously eroding the constitutional rights under Article 16(1) and is a source to circumvent due process of selection.

2. Though Mr Goswamy, learned counsel appearing for the petitioners, is right in contending that opportunity should be given to such people and the petitioners too would have had also applied for appointment having considered their cases awaiting for such an appointment since their cases were tested by the Public Service Commission and kept in the waiting list, omission to appoint them affects their rights seriously under Article 16(1) of the Constitution. We cannot give a direction to consider their cases for appointment from the wait list. The sympathetic vibrations are also responsible for this sagging problem and moral degeneration. Under these circumstances, we are constrained not to accede to the persuasive request made by Mr Goswamy. However, the authorities are directed to notify forthwith vacancies to the Public Service Commission and the Public Service Commission would take necessary expeditious action for recruitment and recommend the names to the authorities expeditiously, so that the existing vacancies would be filled up and the petitioners and all eligible candidates would also be eligible to apply.

3. The special leave petitions are accordingly dismissed.