

GAHC010004432013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/948/2013

PRANAB KUMAR BARUAH
S/O LT. NIRMAL BARUAH R/O NAMRUP THERMAL POWER STATION
QUARTER NO. VI/14 P.O. NTPS. DIST. DIBRUGARH, ASSAM.

---VERSUS---

1.THE STATE OF ASSAM AND 14 ORS.,
REP. BY THE MANAGING DIRECTOR, APGCL,
BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI-1.

2:THE CHIEF GENERAL MANAGER, APGCL
BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI-1.

3:THE DIRECTOR,
PERSONNEL ASEB,
BIJULEE BHAWAN,
PALTAN BAZAR, GUWAHATI-1.

4:THE GENERAL MANAGER, APGCL
NAMRUP THERMAL POWER STATION
APGCL, NAMRUP.

5:THE SELECTION COMMITTEE FOR
THE SELECTION OF "SAHAYAK", APGCL
NAMRUP THERMAL POWER STATION
NAMRUP, DIBRUGARH.

6:SRI BABUL BORO,
S/O LT. TONKESWAR BORO KACHARI PATHAR,
VILL- and P.O. NTPS, NAMRUP.

7:SRI SUNU GOGOI,
S/O LT. BONSHIDHAR GOGOI NAMRUP THERMAL,
DIBRUGARH, ASSAM.

8:SRI EKALOBIA LAHON,
S/O SRI BINOD LAHON DILLIGHAT WATER INTAKE,
NAMRUP, DIBRUGARH.

9:SRI DEEPIYOTI GOGOI,
S/O LT. DHARMESWAR GOGOI,
NAMRUP THERMAL, DIBRUGARH, ASSAM.

10:SRI TAPAN LAHAN,
S/O LT. NANDESWAR LAHAN NAMRUP THERMAL,
DIBRUGARH, ASSAM.

11:SRI ATUL CHANDRA DAS,
S/O LOHIT CH. DAS, NAMRUP THERMAL
DIBRUGARH, ASSAM.

12:SRI JAYANTA GOGOI
S/O SRI GOPAL CH. GOGOI CHAIKYA GAON
P.O. NTPS DIBRUGARH, ASSAM.

13:SRI PALASH BURAGOHAIN
S/O LT. BUDHESWAR BURAGOHAIN
NAMRUP THERMAL, DIBRUGARH, ASSAM.

14:SRI TORIT GOGOI ,
S/O LT. NARAYAN CH. GOGOI,
NAMRUP THERMAL, DIBRUGARH, ASSAM.

15:SRI MOHIDHAR BORAH,
S/O SRI NAGEN BORAH NAMRUP THERMAL,
DIBRUGARH, ASSAM.

Advocate for the Petitioner : MR.P KATAKI

Advocate for the Respondent : SC, APDCL

- B E F O R E -

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

18.01.2024

Heard Mr. R. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. D. Nath, learned Senior Government Advocate, Assam appearing for

respondent Nos.1, 2, 4 & 5 and Mr. S.P. Sharma, learned counsel appearing for respondent No.3.

2. The petitioner, by way of instituting the present writ petition, has assailed the appointment effected in the case of the private respondents vide an office order dated 22.02.2013.

3. The General Manager, Assam Power Generation Company Limited (APGCL), Namrup Thermal Power Station (NTPS), Namrup, vide a vacancy notice dated 11.10.2012, had invited applications for filling up of 10(ten) posts of Sahayak available in the said Power Station. The said advertisement had, in addition to prescribing the academic qualification, required that the candidates to be eligible for applying must have 2(two) years work experience in power stations at NTPS.

4. The petitioner, having fulfilled the academic qualification as well as the experience criteria, had submitted his application for being considered against the said 10(ten) posts of Sahayak.

5. The respondents thereafter allowed the petitioner to participate in the selection process which included a physical fitness test as well as a viva-voce component. On conclusion of the said selection process, the office order dated 22.02.2013 came to be issued.

6. As projected in the writ petition, it is the case of the petitioner that the office order dated 22.02.2013 was not so issued after publication of a select list. It is the further case of the petitioner that he, having more experience than the private respondents, should have been preferred over the said private respondents and having not done so, the entire selection process stood vitiated. It is the further case of the petitioner that the selection process was not so conducted by applying a disclosed criteria.

7. The respondents have filed an affidavit in the matter and therein have laid down the procedure followed for such selection process in pursuance to the

advertisement dated 11.10.2012. It is stated in the said affidavit that in pursuance to the said selection process, a merit list was first published wherein the name of the petitioner as well as the private respondents duly figures. Thereafter, by following the merit positions as well as 100 point roster system of the Government of Assam, a select list was prepared. Therein basing on the merit position of the petitioner, he was placed at waiting list position No.10. The persons whose names figured in the merit list so prepared basing on merit as well as reservation applied, till the 10th position, were offered appointment and they were so appointed vide the impugned order dated 22.02.2013.

8. The petitioner has basically challenged in the writ petition his non-selection on the ground that the experience garnered by him in the Namrup Thermal Power Station (NTPS) has not been given any weightage in the selection process. The said issue had been examined on the light of the advertisement dated 11.10.2012. In the advertisement while prescribing the minimum educational qualification possessed by the candidates, desirous to apply in pursuance to the advertisement, as read upto Class VIII, it was mentioned that HSLC or equivalent examinations passed candidates are desirable. Further, weightage was given to ITI qualified candidates. With regard to experience, the only prescription made was that the candidate so desirous to apply must have 2(two) years work experience in Power Station at Namrup Thermal Power Station. The said advertisement does not provide for granting of any weightage in the selection basing on the length of service of the candidate so applying.

9. The call letter given to the petitioner available at Annexure 7 (Page 21 of the writ petition) reflects that the selection was so conducted basing on the physical fitness test as well as a viva. The petitioner, in the writ petition has not alleged any *malafide* against the Selection Committee Members and has also not questioned either his placement in the merit list vis-à-vis the placement of the private respondents. The private respondents have been in service in pursuance to the impugned order dated

22.02.2013 till date. The petitioner having not brought on record any material to doubt the placement of the private respondents in the merit list and also not having questioned the marks allotted to him in the selection process, the contentions of the petitioner cannot be accepted.

10. Accordingly, I am of the view that the order dated 22.02.2013, prepared in pursuance to a merit list published after a due process of selection, requires no interference.

11. In that view of the matter, the writ petition is without any merit and the same stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant