

GAHC010043652022



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

Case No. : WP(C) No.1711 of 2022

CHANDRA MOHAN NATH,
S/O- NABIN CHANDRA NATH, R/O- VILL TILAPARA,
P.O- KOKRAJHAR, DIST- KOKRAJHAR, BTR, ASSAM, PIN-783370.

VERSUS

1: THE GAUHATI HIGH COURT AND 3 ORS. REP. BY THE REGISTER
GENERAL OF GAUHATI HIGH COURT AT GUWAHATI, ASSAM.

2: THE SELECTION BOARD, FOR MINISTERIAL STAFF UNDER THE
ESTABLISHMENT OF THE LD. DISTRICT AND SESSIONS JUDGE
KOKRAJHAR REP. BY THE DISTRICT AND SESSIONS JUDGE KOKRAJHAR
BTR ASSAM.

3: ABHIJEET DUTTA
S/O- LATE BIPUL DUTTA, VILL- THANAPARA,
WARD NO.9, P.O., P.S AND DIST- KOKRAJHAR, PIN-783370.

4: THE MOTOR VEHICLE INSPECTOR,
DTO OFFICE, BONGAIGAON, ASSAM, PIN-78338

For the Petitioner(s) : Mr. M.U. Mahmud, Advocate.

For the Respondent(s) : Mr. H.K. Das, Standing Counsel, Gauhati High Court for respondent
Nos.1 & 2.
: Ms. M.D. Borah, Standing Counsel, Transport Department for
respondent No.4.

– **B E F O R E** –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

26.02.2024
(Vijay Bishnoi, CJ)

1. This writ petition is filed by the petitioner seeking the following

prayers:-

“Under the facts and circumstances stated above, it is most respectfully prayed that your Lordship should be pleased enough to admit this petition, call the records, issue rule calling upon the respondents particularly to the respondent No.4 to show cause as to why the appointment of respondent No.3 shall not be considered and why re-examination of Technical Driving Skill Test shall not be done by another expert and on the basis of the finding of that expert, the petitioner may be appointed in the post of driver under the Establishment of Ld. District and Sessions Judge, Kokrajhar, after cancelling the selection and appointment of respondent No.3 for the said post and in his place to appoint the petitioner considering his long experience as driver under the Establishment of Ld. District and Sessions Judge, Kokrajhar and cause or causes, being shown, if any and after hearing the parties, and on perusal of records, be further pleased to make the rule absolute and/or pass such other order/orders or direction as your Lordship may deem fit and proper in the interest of justice.”

2. The brief facts of the case are that the Office of the District & Sessions Judge, Kokrajhar, Assam issued an advertisement dated 17.06.2021 inviting applications from the intending candidates for filling up a post of Driver on contingency basis on a fixed pay of ₹ 15,000/- (Rupees Fifteen Thousand) per month in Un-Reserved Category.

3. Pursuant to the said advertisement, in all 22 candidates submitted their applications and out of them, 18 were shortlisted for *viva voce*. The shortlisted candidates were called for appearing in the technical driving skill test on 10.08.2021 and for interview on 14.09.2021. The petitioner along with 7 other candidates appeared in the technical driving skill test taken by the Motor Vehicle Inspector, Bongaigaon (Assam) and thereafter, appeared for interview/*viva-voce* held on 14.09.2021. The Selection Board selected the respondent No.3 for the post of Driver pursuant to the advertisement dated 17.06.2021 and being aggrieved with the same, the petitioner has filed this writ

petition.

4. It is contended by the learned counsel for the petitioner that the action of the respondents of selecting the respondent No.3 for the post of Driver pursuant to the advertisement dated 17.06.2021 is illegal, arbitrary, unfair and against the principle of administrative fairplay. It is argued that the petitioner was having experience of driving of more than 6(six) years, whereas the respondent No.3 has no experience of driving in comparison to the petitioner. It is contended that in the interview, the petitioner and the respondent No.3 secured equal number of marks, i.e. 28, but despite that ignoring the experience of the petitioner, the respondent No.3 has illegally been selected and appointed on the post of Driver. The learned counsel for the petitioner has, therefore, prayed that the writ petition may be allowed and the relief prayed for in the writ petition may kindly be granted.

5. Counter is filed on behalf of the respondent Nos.1 & 2, wherein it is admitted that in the interview the petitioner and the respondent No.3 had secured equal number of marks, however, in the technical driving skill test conducted by the Motor Vehicle Inspector on 10.08.2021, the petitioner was graded "Good", whereas the respondent No.3 was graded as "Very Good" in the signal test. It is also contended by the respondent Nos.1 & 2 in the counter that the claim of the petitioner of having 6(six) years experience of driving cannot be accepted as he has produced the experience certificates from the District & Sessions Judge, Kokrajhar and Chief Judicial Magistrate, Kokrajhar certifying that the petitioner was driving the personal vehicles of the aforesaid Officers, whereas the respondent No.3 has submitted an experience certificate certifying that he has officially worked in the Office of the Deputy

Commissioner, Kokrajhar on contractual basis as a Driver for around a year. It is the case of the respondents that taking into consideration the above facts, particularly, the fact that the respondent No.3 was graded as "Very Good" by the Motor Vehicle Inspector, Bongaigaon in the technical driving skill test, he was selected and appointed on the post of Driver.

6. Having heard the learned counsel for the parties and after going through the material available on record, we are of the opinion that the action of the respondent No.2 of appointing the respondent No.3 as Driver pursuant to the advertisement dated 17.06.2021 cannot be said to be arbitrary and illegal, particularly in view of the fact that the respondent No.3 was graded as "Very Good" in signal test by the Motor Vehicle Inspector, Bongaigaon, whereas the petitioner was graded as "Good".

7. Though in the writ petition, the petitioner has alleged that the respondent No.4, i.e. the Motor Vehicle Inspector, Bongaigaon, has illegally graded him as "Good" in the signal test and has graded "Very Good" to the respondent No.3 in the signal text, but no *mala fides* has been alleged against the respondent No.4.

8. Hence, no case for interference is made out and the writ petition being devoid of any merit is hereby dismissed.

JUDGE

CHIEF JUSTICE