

GAHC010007352015



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

**Case No. : WP(C)/241/2015**

UPEN RONGPI and 3 ORS

S/O LT. BUDDHI RAM RONGPI, DIVISIONAL ACCOUNTS OFFICER, ASSAM STATE TRANSPORT CORPORATION, CITY SERVICE, GHY-32, RUP NAGAR, R/O JYOTIKUCHI DHAPALIA, P.O. SWAKUCHI, P.S. FATALSHIL AMBARI, DIST- KAMRUP METRO, ASSAM

2: RAMESH CHANDRA BARMAN

S/O LT. BARMAN  
DIVISIONAL ACCOUNTS OFFICER  
O/O THE MANAGING DIRECTOR  
ASSAM STATE TRANSPORT CORPORATION  
H.O.  
P.O. PALTAN BAZAR  
GHY-8

3: GHANASHYAM MANTA

S/O SRI B. MANTA  
DIVISIONAL ACCOUNTS OFFICER  
O/O THE MANAGING DIRECTOR  
ASSAM STATE TRANSPORT CORPORATION  
H.O.  
P.O. PALTAN BAZAR  
GHY-8

4: ATUL CHANDRA BARMAN

S/O LT. NABIN CHANDRA BARMAN  
DIVISIONAL ACCOUNTS OFFICER  
O/O THE MANAGING DIRECTOR  
ASSAM STATE TRANSPORT CORPORATION  
H.O.  
P.O. PALTAN BAZAR  
GHY-

VERSUS

THE ASSAM STATE TRANSPORT CORPORATION and 13 ORS  
REP. BY ITS CHAIRMAN, HEAD OFFICE, PALTAN BAZAR, GHY-6

2:THE MANAGING DIRECTOR  
ASTC  
H.O.- PALTAN BAZAR  
GHY-6

3:THE DY. GENERAL MANAGER CUM C.P.O.  
ASTC  
PALTAN BAZAR  
GHY-8

4:MITRADEV CHNGKAKATI  
ESTATE OFFICER  
O/O THE DIVISIONAL SUPERINTENDENT  
ASTC  
TINSUKIA  
P.O. and DIST- TINSUKIA  
ASSAM  
PIN-786125

5:BIREN BARTHAKUR  
SENIOR ACCOUNTS OFFICER  
O/O THE MANAGING DIRECTOR  
ASTC  
H.O.- PALTAN BAZAR  
GHY-6

6:DIPAK MAHA PATRA  
ACCOUNTS OFFICER  
O/O THE DIVISIONAL SUPERINTENDENT  
ASTC  
JORHAT  
P.O. and DIST- JORHAT  
ASSAM  
PIN-785001

7:THE STATE OF ASSAM  
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM  
TRANSPORT DEPTT.  
DISPUR  
GHY-6

8:SRI. ABHIJIT SAHA  
S/O. AJIT KR. SAHA  
ASWINI TRADE CENTRE

KADAMTAL  
WARD NO.7  
BARPETAROAD -781315.

9:SRI SUJIT ROY

S/O. PRANESH ROY  
HOUSE NO. 33  
BYE LANE NO. 6  
JOYMATI NAGAR  
JALUKBARI  
PANDU  
GUWAHATI -781102.

10:MS. SWETA PAREEK

D/O. PAWANM PAREEK  
C/O. SADHAN DEY  
HOUSE NO. -11  
NATUN BASTI  
ARYANAGAR  
GHY.-16.

11:MS. TANVI BAIRAGI

S/O. PRANAB CH. BAIRAGI  
SWASTIK  
HOUSE NO.-33  
JURONI PATH RUKMINI GAON  
P.O. KHANAPARA  
GUWAHATI -781022.

12:SRI. DIP JYOTI BAISHYA

C/O. NAYANJYOTI BAISHYA  
JALUKBARI  
LANKESWAR  
P.O. GAUHATI UNIVERSITY  
PIN. 781014.

13:SRI RAJIV MEDHI

S/O. LT. KALICHARAN MEDHI  
WARD NO. 3  
DHEMAJI CHARIALI  
P.O. and DIST. DHEMAJI  
PIN. 787057.

14:MD. AHMED SHAKIR

S/O. NUMAN AHMED  
HOUSE NO. 3  
PNGB ROAD  
MASJID PATH  
SANTIPUR  
HILL SIDE WEST  
GUWAHATI -781009

**Advocate for the Petitioner : MR.A ADHIKARY**

**Advocate for the Respondent :**

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**23.04.2024**

4 numbers of petitioners have joined together in filing this application under Article 226 of the Constitution of India putting to challenge an advertisement published in the Assam Tribune in its issue dated 13.12.2014 by the Assam State Transport Corporation (ASTC) for filling up, amongst others, 7 nos. of post of Accounts Officer.

2. The facts, as projected are that the petitioners were working as Divisional Accountant in the ASTC which according to them is the feeder cadre for the post of Accounts Officer. A drive was initiated to fill up vacant posts of Accounts Officer wherein the petitioners along with other eligible candidates were directed to appear in a written test consisting of two papers which was fixed on 31.07.2014. However, none of the candidates had participated in the said written examination and the petitioners accordingly contend that the said

process was abandoned. The petitioners had also submitted a representation dated 07.07.2014 praying for consideration of their promotion on the basis of seniority. However, instead of considering the said representation, the impugned advertisement was issued whereby 7 nos. of posts of Account Officer were to be filled up by direct recruitment wherein the minimum educational qualification was also prescribed as Chartered Accountant.

3. I have heard Shri SK Singha, learned counsel for the petitioners. I have also heard Shri GN Sahewalla, learned Senior Counsel assisted by Ms. G. Duggal, learned counsel for the respondent – ASTC.

4. Shri Singha, learned counsel for the petitioners has submitted that on earlier occasions, the post of Accounts Officer was filled up on the basis of promotion by taking into account the seniority of the candidates from feeder cadre of Divisional Accountant. The said process was however not adhered to in the year 2014 as initially, a written test was sought to be held vide communication dated 30.06.2014. The said attempt had also failed and stood abandoned and therefore, it was incumbent upon the Corporation to consider the case of the petitioners for promotion on the basis of seniority in the feeder cadre. The learned counsel for the petitioners has however informed this Court that in the meantime, the petitioners have retired from their services on attaining the age of superannuation.

5. *Per contra*, Shri Sahewalla, learned Senior Counsel for the respondent - ASTC has submitted that there were no Rules prescribed for filling up the post of Accounts Officer. Though an attempt was made by the Corporation by trying to hold a written test amongst the in-house candidates in the cadre of Divisional Accountant which include the petitioners, the petitioners chose not to participate and therefore he contends that due opportunity was granted to the petitioners

for being selected for the said post. It is further submitted that since the aforesaid process initiated vide the communication dated 30.06.2014 had failed to yield any results, the 7 nos. of posts were filled up by direct recruitment wherein the minimum qualification of Chartered Accountant was prescribed taking into consideration the importance of the post. He submits that the financial health of the Corporation at that stage was not very sound and therefore, the said process had to be adopted to fill up the post. He accordingly submits that no relief can be granted to the petitioners.

6. The rival contentions have been duly considered and the materials placed before this Court have been carefully examined.

7. It is not in dispute that at the relevant point of time there were no prescribed Rules to fill up the post of Accounts Officer. Under the said situation, the concern of this Court would be to examine as to whether the vacancies were filled up by a fair and transparent process. It also appears that initially an attempt was made to fill up the post of Accounts Officer by holding a written test from the in-house candidates in the cadre of Divisional Accountant vide the communication dated 30.06.2014. However, it is not in dispute that neither the petitioners nor any other candidates had appeared and only on failure of the said process, the Corporation had adopted the recourse to fill up 7 nos. of vacant post of Accounts Officer through direct recruitment. This Court is of the opinion that above recourse and the mode to fill up by direct recruitment from the open market cannot be faulted with, more so, when there were admittedly no Rules at that point of time to fill up such vacancies. This Court has also considered the other aspect of the matter that all the 4 petitioners have in the meantime superannuated from their services.

8. In the considered opinion of this Court no relief, whatsoever can be

granted to the petitioners in this case. The writ petition accordingly stands dismissed.

**JUDGE**

**Comparing Assistant**