

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. FATASHIL 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