

GAHC010017862015



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

Case No. : WP(C)/4267/2015

SIMANTA BORGOHAIN and 15 ORS
S/O- SRI RUDRA KANTA BORGOHAIN, R/O- MELACHAKAR NEAR
POLLUTION OFFICE, SIVASAGAR, P.O., P.S. and DIST.- SIVASAGAR, ASSAM.

2: GURMIT SINGH
S/O- LT. NIRMAL SINGH
R/O- NAZIRA TOWN
WARD NO. 6
P.S.- NAZIRA
DIST.- SIVASAGAR
ASSAM.

3: MUSTAF HUSSAIN
S/O- LT. BUBU ALI
R/O- NA-MATI BOSSA GAON
NAZIRA
P.S.- NAZIRA
DIST.- SIVASAGAR
ASSAM.

4: SARAT DUTTA
S/O- LT. RUBUL DUTTA
R/O- PHUKAN NAGAR BISHNU NAGAR
WARD NO. 14
P.S. and DIST.- SIVSAGAR
ASSAM.

5: RAJU DAS
S/O- SRI PRATAP DAS
R/O- VILL.- SISSI MUKH
P.S. and DIST.- DHEMAJI
ASSAM.

6: OMAR FARUQUE AHMED

S/O- SRI GOPAL HUSSAIN
R/O- HOWLY AMBARI
WARD NO. 4
P.S. and DIST.- BARPETA
ASSAM.

7: PRINCE HAZARIKA
S/O- SRI PANINDRA HAZARIKA
R/O VILL.- KHERMOYAGAON
P.O.- PARBATPUR
NAMRUP
P.S.- NAMRUP
DIST.- DIBRUGARH
ASSAM.

8: RAJEN KUMAR DAS
S/O- SRI BHUBANESWAR DAS
R/O VILL.- BEZ GAON
P.S.- GAURISAGAR
DIST.- SIVASAGAR
ASSAM.

9: MANAB JYOTI PHUKAN
S/O- SRI NRIPEN PHUKAN
R/O- NAZIRA TOWN
WARD NO. 1
P.S.- NAZIRA
DIST.- SIVASAGAR
ASSAM.

10: PRIYANKO PRATIM GOHAIN
S/O- SRI LAKHESWAR GOHAIN
R/O- JAMUA PAR
PIYOLI NAGAR
STATION CHARIALI
P.S. and DIST.- SIVASAGAR
ASSAM.

11: RANAPRATAP BORUAH
S/O- LT. DIMBESWAR BORUAH
R/O- JALUKONIBARI GOHAIN GAON
P.S. and DIST.- JORHAT
ASSAM.

12: AVINASH GOGOI
S/O- SRI DURGESWAR GOGOI
R/O- LAXMINAGAR
CHEREKAPAR

SIVASAGAR
DIST.- SIVASAGAR
ASSAM.

13: LALIT DAS
S/O- LOKEN CH. DAS
R/O VILL.- SENSUWA GAON
P.S. and DIST.- SIVASAGAR
ASSAM.

14: APURBA TAMULI
S/O- LT. BUDHIN TAMULI
R/O- BOARDING ROAD
WARD NO. 2
DIST.- SIVASAGAR
ASSAM.

15: RUPON DAS
S/O- SRI MUHIKANTA DAS
R/O VILL.- BOLIAGHAT
SIVASAGAR
P.S. and DIST.- SIVASAGAR
ASSAM.

16: NIPUL CHANDRA BORAH
S/O- SRI BAPDHAN BORAH
R/O VILL.- CHELENGMORA
JORHAT
P.S. and DIST.- JORHAT
ASSAM

VERSUS

THE OIL AND NATURAL GAS CORPORATION LTD and 5 ORS
REP. BY THE CHAIRMAN, HAVING ITS REGISTERED AT JEEVAN BHARATI,
TOWER- II, 124, INDIRA CHOWK, NEW DELHI- 110001.

2:THE CHAIRMAN
THE OIL AND NATURAL GAS CORPORATION LTD.
JEEVAN BHARATI
TOWER- II
124
INDIRA CHOWK
NEW DELHI- 110001.

3:THE CHIEF MANAGING DIRECTOR
THE OIL AND NATURAL GAS CORPORATION LTD.
JEEVAN BHARATI

TOWER- II
124
INDIRA CHOWK
NEW DELHI- 110001.

4:THE EXECUTIVE DIRECTOR
ASSET MANAGER
ASSAM ASSET
OIL AND NATURAL GAS CORPORATION LTD.
NAZIRA
ASSAM.

5:THE GENERAL MANAGER
REGIONAL R and P DEPTT.
ASSAM ASSET.
OIL AND NATURAL GAS CORPORATION LTD.
NAZIRA
ASSAM.

6:THE DY. MANAGER
I/C HR - ER
ASSAM ASSET
OIL AND NATURAL GAS CORPORATION LTD.
NAZIRA
ASSAM

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocates for the petitioners : Shri S. Borthakur, Advocate.
Advocates for the respondents : Shri G. N. Sahewalla, Sr. Advocate,
Shri B. K. Das, Advocate for ONGC.

Date of hearing : **25.04.2024**

Date of Judgment : **25.04.2024**

JUDGMENT & ORDER

Heard Shri S. Barthakur, learned counsel for the petitioners. Also heard Shri G. N. Sahewalla, learned Senior Counsel assisted by Shri B. K. Das, learned counsel for the respondent-ONGC.

2. 16 numbers of petitioners have joined together in this writ petition with the following prayer:-

“ It is therefore prayed that Your Lordships may graciously be pleased to admit this petition and may further be pleased to issue a Rule upon the respondents to show cause as to why a writ in the nature of Certiorari and/or any other appropriate writ, order or direction of like nature should not be issued directing the respondent authority (i) to set aside and quash the impugned Recruitment Advertisement No. 2/2015 published by the respondent Company and/or all other consequential order(s)/actions(s) and/or to show cause as to why a writ in the nature of Mandamus and/or any other appropriate writ, order or direction of like nature should not be issued directing the respondent authority (ii) not to go ahead with the Recruitment process initiated vide Advertisement No.2/2015 and/or (iii) to produce the record of the selection process initiated process vide Advertisement No. 2/2014 and/or to appoint the present petitioners and other candidates whose names found place in the waiting list in the respective posts for which they were selected call for the records and on perusal thereof and after hearing the parties may be pleased to make the rule absolute and/or may be pleased to pass such further or other orders as to Your Lordships may deem fit and proper.

-AND-

It is further prayed that the pending disposal of the writ petition Your Lordships

may be pleased to stay the operation of the recruitment process initiated vide Advertisement No. 2/2015 and/or to pass such further or other order/orders so as to grant adequate interim relief."

3. The facts projected is that the ONGC had initiated a recruitment process in various posts vide Advertisement No. 2/2014 in which the petitioners had participated in the different posts. It is contended that there was no publication of the result-sheet as such and only by communications made by e-mail, the successful candidates as well as the petitioners were informed about their positions. The petitioners were informed that they were in the wait list. Thereafter, a fresh advertisement was issued being Advertisement No. 2/2015. The petitioners apprehending anomalies in the initial selection process had filed this present petition in which initially there was an interim order of stay. Shri Borthakur, the learned counsel for the petitioners has however informed this Court that the aforesaid stay order was subsequently vacated.

4. It is submitted that in the meantime, the petitioners had obtained various informations by taking recourse of the ***RTI Act, 2005*** and they were shocked to find large scale discrepancies in the recruitment process initiated vide Advertisement dated 2/2014. In this connection, the learned counsel has referred to an additional affidavit filed on 02.02.2017 in this case. By drawing the attention of this Court to the averments made therein, more specifically paragraph 3, the following discrepancies have been highlighted:-

(i) So far as the post of Junior Fireman is concerned, though initially the response was that none from the wait list candidate was appointed, the said information was varied by subsequently saying that three numbers of appointments were made which was again modified to two numbers of appointments.

(ii) So far as such post of JMVD (Winch)/HV is concerned, the petitioner no. 2 was initially informed that he was ranked 11th in the wait list which was subsequently changed to 15. The minimum marks for Un-reserved Category was also varied from 61.5 to 65.

(iii) For the post of JMVD (Winch), it was stated that the breakup of reservation was 22 for Un-reserved, 9 for OBC and 12 for ST. However, the same was changed to 19 for Un-reserved, 11 OBC and 13 for ST.

(iv) The rank of the petitioner no. 9 who had applied for the post of Assistant Rigman (Drilling) was initially stated to be 3rd in the wait list (OBC) which was changed to 24.

(v) The rank of the petitioner no. 6 in the post of JAT (Electrical) was stated to be 2nd in the wait list (UR) with 63 marks and the petitioners however came to learn that another candidate securing the same marks and in the same category was given the appointment.

5. The learned counsel for the petitioner submits that the anomalies are glaring and therefore without considering the cases of the petitioner, the subsequent recruitment process vide the impugned Advertisement No. 2/2015 could not have been proceeded with. He accordingly submits that appropriate directions be issued for consideration of the case of the petitioners.

6. *Per contra*, Shri Sahewalla, the learned Senior Counsel for the respondent Corporation has submitted that the projection made by the petitioners are incorrect and there is no basis for the present claim. It is submitted that all the allegations and claims of the petitioners have been denied by means of affidavit filed in this proceedings. He submits that the additional affidavit wherein for the first time anomalies were brought on record was replied by an affidavit dated 01.06.2018. He submits that all necessary explanations were given in the said affidavit. It is also submitted that in one solitary case, pertaining to petitioner no. 2 (Sri Gurmit Singh) there was an inadvertent error in notifying his rank in

the wait list.

7. The learned Senior Counsel submits that the entire thrust of the petitioners would amount to a claim that without exhausting the wait list with regard to the Advertisement No. 2/2014, fresh selections could not have been made.

8. The rival submissions have been duly considered and the materials placed before this Court including the additional pleadings have been examined.

9. As noted above, the challenge in this petition is with regard to the Advertisement No. 2/2015 which has been prayed to be set aside and quashed. Apart from the fact that selections and appointments have been made pursuant to the said advertisement as the initial interim order was vacated, this Court has noticed that there is no challenge to the Advertisement No. 2/2014 in respect of which, allegations of anomalies have been raised in this case more particularly which have been brought to the record by way of the additional affidavit filed on 02.02.2017. The petitioners have specified certain anomalies which pertains to discrepancies in the replies given under the RTI Act. Though it appears that there are certain discrepancies, this Court is of the view that those discrepancies would not support the claim of the petitioners towards a direction for consideration of their appointment. It is not the case of the petitioners that they have secured more marks even whereafter they have been denied appointment and persons below them have been selected. The anomalies, even on its face value would not make any change in the decision making process by which the petitioners would have been given the benefit of appointment. What is more important to note is that the initial recruitment process vide Advertisement No. 2/2014 is not even the subject matter of challenge. The appointments pursuant to the selection in the said recruitment process being made and none of the

appointments being the subject matter of challenge, no relief whatsoever can be granted to the petitioner.

10. As regards the challenge to the subsequent Advertisement No. 2/2015 is concerned this Court has noticed that selections and appointment were also made pursuant to the same after vacation of the interim order passed by this Court and no allegations of any nature has been made to constitute a challenge to the said recruitment process as the allegation only pertaining to the earlier recruitment process which is not even the subject matter of challenge.

11. In view of the aforesaid facts and circumstances, this Court is of the opinion that no case for interference is made out and no relief can be granted to the petitioners.

12. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant