

Commissioner, Assam State Housing and Another

Vs

Purna Crandra Bora and Another

Civil Appeal No. 783 of 1991

(S. P. Bharucha, V. N. Khare JJ)

23.04. 1998

ORDER

1. On 27-3-1989, the first respondent was "temporarily appointed" as Accounts Assistant by the appellant. The appointment order stated that he would serve on "till appointment of Accounts Assistant is made on regular basis". It appears that thereafter interviews were held for regular appointment to the post, to which the first respondent was called. He was not selected. On 17-11-1989, the appellant appointed as Accounts Assistants five persons who had been selected and on the same day an order was made releasing the first respondent from service with immediate effect.
2. The first respondent filed a writ petition in the High Court at Gauhati. The writ petition was allowed and the order releasing the first respondent from service was set aside. The High Court went through the records and found that although the Chairman of the appellant had directed that the selection should be made on the basis of a written test and interview, only an interview had been held. Also the appointment order indicated that the five persons were appointed temporarily subject to discharge. The High Court took the view that the order-sheet did not indicate the names of the persons who had been selected by the Selection Committee and approval of the selection, and, in the absence of reasons in the order itself, the reasons given in the counter-affidavit could not be taken into account.
3. This Court granted leave to the appellant to appeal and stayed the operation of the impugned judgment and order. It would appear that, as a consequence, the first respondent lost interest in the matter and does not appear before us.
4. The first respondent was appointed temporarily and until appointment of Accounts Assistant was made on a regular basis. He was discharged from service on the day on which five persons were appointed after selection. It is not for the first respondent to challenge the selection on the ground that no written test was held nor was it necessary in these proceedings for the High Court to look at the order-sheet of the selection. The five persons were on probation when appointed, but that did not mean that they were not appointed on regular basis. We find no merits in the case of the first respondent, as upheld by the High Court.
5. The appeal is allowed. The judgment and order under appeal is set aside. The writ petition filed by the first respondent is dismissed. No order as to costs.