

(1993) 09 GAU CK 0016

Gauhati High Court

Case No: Writ Appeal No. 160 of 1993

Surendra Shah

APPELLANT

Vs

Superintending Engineer
(Electrical), CPWD,
Bamunimaindam, Guwahati and
Ors.

RESPONDENT

Date of Decision: Sept. 8, 1993

Citation: (1994) 1 GLJ 296

Hon'ble Judges: R.K.Manisana Singh, J and M.Sharma, J

Bench: Division Bench

Advocate: B.Malakar, K.N.Choudhary, Advocates appearing for Parties

Judgement

R.K. Manisana, J.

This appeal arises from a judgment of a learned Single Judge of this Court passed on 29.1.93 in Civil Rule No. 2400 of 1992 dismissing the writ petition.

2. In the writ petition, appellant herein has challenged the selection list dated 2.4.92 for the appointment to the post of Grade IV in the Central Public Works Department (for short, CPWD). The learned Single Judge did not entertain the petition on the ground that the CPWD is a Central Government Department and the posts for which selection was made are for appointment to civil service of the Union or civil posts under the Union. Hence this appeal.

3. The appellant has challenged the correctness of the findings of the learned Single Judge. Under section 14 of the Administrative Tribunal Act, 1985, "Act" for short, provides, inter alia, that Central Administrative Tribunal shall exercise jurisdiction, powers and authority in relation to recruitment, and matters concerning recruitment to any civil service of the Union or a civil post under the Union.

4. The question then is, What is recruitment ? After completion of process for selection, candidate who is found fit does not acquire indefeasible right to be

appointed. In other words, a candidate cannot claim as of right that the recommendation must be accepted as the appropriate authority may decide not to fill up all or any of the vacancies for valid reasons. If, however, the vacancy is to be filled up, the appointment is to be made strictly adhering to the order of merit as recommended. It cannot disturb the order of merit according to its own sweet will except for good reasons, such as, bad conduct or character (see *Jatindra Kumar vs. State of Punjab*, AIR 1984 SC 1850 and *Shankarsan Dass vs. Union of India*, AIR 1991 SC 1612). This being the position, recruitment is initial process which may lead to an eventual appointment to a civil post or to any civil service; and the appointment is the act of filling up the vacancy and posting. In that view of the matter, notification which has been challenged is within the ambit of recruitment and/or matter concerning recruitment. As already stated, the matter relating to recruitment to a civil post under the Union or to any civil service of Union is within the jurisdiction of the Central Administrative Tribunal. The present is a case concerning the recruitment to a civil post under the Union. For these reasons, the learned Single Judge rightly dismissed the petition.

5. In the result, the appeal is dismissed. No costs.