

GAHC010042242023



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

Case No. : WP(C)/1373/2022

RAHUL DAS
R/O- 3 NO. DAKSHINHATI
P.O. AND P.S. BARPETA
ASSAM
PIN- 781301.

VERSUS

THE INDIAN OIL CORPORATION LTD. AND 4 ORS
HAVING ITS REGISTERED OFFICE AT G-9
ALI YAVAR JUNG MARG
BANDRA (EAST)
MUMBAI- 400051
REP. BY ITS CHAIRMAN.

2:THE GENERAL MANAGER
INDIAN OIL CORPORATION LTD.
(EMPLOYEE AND SERVICES)
GUWAHATI REFINERY
NOONMATI
GUWAHATI-781020
ASSAM

3:THE DEPUTY GENERAL MANAGER (HUMAN RESOURCE)
GUWAHATI REFINERY
NOONMATI
GUWAHATI-781020
ASSAM

4:THE EXECUTIVE DIRECTOR (HUMAN RESOURCE)
INDIAN OIL CORPORATION LTD
GUWAHATI REFINERY
NOONMATI

GUWAHATI-781020
ASSAM
5:PRANAB PATHAK
JUNIOR ENGINEERING ASSISTANT
POWER AND UTILILTY
COOLING TOWER UNIT
GUWAHATI REFINERY
NOONMATI
GUWAHATI-781020.

Advocate for : MR. J PATOWARY
Advocate for : MR. N DEKA (r-1 to 4) appearing for THE INDIAN OIL
CORPORATION LTD. AND 4 ORS

Linked Case : **WP(C)/8082/2022**

PRASHANK KUMAR
SON OF SRI KRISHNA GOPAL PAL

RESIDENT OF 618 NEW ASHOK NAGAR GOOB GARDEN

KALYANPUR
KANPUR NAGAR
NEAR SUKHDATA HOSPITAL

UTTAR PRADESH. PIN- 208017.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY

MINISTRY OF PETROLEUM AND NATURAL GAS

SHASTRI BHAWAN
NEW DELHI.
PIN- 110001.

2:THE INDIAN OIL CORPORATION LTD
REPRESENTED BY THE CHAIRMAN

3079/3
JB TITO MARG

SADIQ NAGAR

NEW DELHI- 110049.
3:THE DIRECTOR
REFINERY DIVISION
INDIAN OIL CORPORATION LTD
REFINERIES DIVISION
SCOPE COMPLEX

CORE-2
7 INSTITUTIONAL AREA

LODHI ROAD
NEW DELHI- 110003.
4:THE DEPUTY GENERAL MANAGER
INDIAN OIL CORPORATION LTD.

HUMAN RESOURCES
REFINERIES DIVISION

GUWAHATI REFINERY
NOONMATI

GUWAHATI- 781020.
5:THE CHIEF VIGILANCE OFFICER
INDIAN OIL CORPORATION LTD.

SCOPE COMPLEX
CORE-2 7

INSTITUTIONAL AREA LODHI ROAD

NEW DELHI- 110003.
6:PRANAB PATHAK
JUNIOR ENGINEERING ASSISTANT-IV (P AND U-BOILER)

INDIAN OIL CORPORATION LTD.

GUWAHATI REFINERY P AND U DEPARTMENT.

Advocate for : MR. K N CHOUDHURY
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

21/09/2023

In WP(C) No. 1373/2022, heard Mr. J Patowari, learned counsel for the petitioner and Ms. T Singh, learned Standing counsel, IOCL for the respondent Nos. 1 to 4 as well as Mr. B Phukan, learned counsel for the respondent No. 5.

Also heard Mr. K N Choudhury, learned Senior counsel assisted by Mr. R M Deka, learned counsel for the petitioner in WP(C) No. 8082/2022 and Ms. T Singh, learned Standing counsel, IOCL for the respondent Nos. 1 to 5 as well as Mr. B Phukan, learned counsel for the respondent No. 6 in the said petition.

2. Heard the learned counsels for the parties at length.

3. It is submitted that the petitioner of WP(C) No. 1373/2022, Rahul Das, through RTI came to know that he secured 93 marks in the written test conducted for the post of Junior Engineering Assistant-IV (P&U) (Post Code 202) with reference to the Advertisement No. Guwahati-GR/P./Rectt./21 dated 25.09.2021 issued by the respondents in the Indian Oil Corporation Limited (Refineries Division). In the said written examination conducted for the post of Junior Engineering Assistant-IV (P&U) (Post Code 202), the petitioner of WP(C) No. 8082/2022, Prashank Kumar secured 79 marks that he came to know through RTI, whereas the selected candidate, i.e., the respondent No. 5/6 Pranab Pathak secured 73 marks in said written examination.

4. Challenge herein is with regard to non-consideration of the cases of the petitioners in terms of the said advertisement dated 25.09.2021 without taking into consideration of their OBC (NCL) Caste Certificates and the period of 2 (two) years of their Apprenticeship Training as Boiler Attendant under the Apprenticeship Act, 1961/1973.

5. In that regard, both the petitioners have placed reliance on the Judgment of the Hon'ble Supreme Court in the case of *U.P. State Road Transport Corporation and Another Vs. U.P. Parivahan Nigam Shishuks Berozgar Sangh and Others* reported in (1995) 2 SCC 1 as well as the Judgment of a Co-Ordinate Bench of this Court in the case of *Manoh Mumar Nath Vs. The Indian Oil Corporation*

Limited and 3 Others [WP(C) No. 1307/2016].

6. However, the claim of the respondent No. 5/6 is that he secured 73 marks in the written test which is more than the marks secured by the two selected General Category candidates for the said post of Junior Engineering Assistant-IV (P&U) (Post Code 202) and in that regard, he has placed reliance in the order dated 09.12.2022 passed by a Co-ordinate Bench in WP(C) No. 7927/2022 (*Biplab Karmakar Vs. Union of India and 7 Others*).

7. In the supplementary affidavits filed by the respondent IOCL on 16.03.2023 in both the matters, it is categorically stated by them that the candidatures of the petitioners of WP(C) Nos. 1373/2022 and 8082/2022 have been erroneously denied due to certain discrepancies and irregularities in the recruitment process and such discrepancies and irregularities in the concerned recruitment process came to the notice of the respondent IOCL during an internal enquiry conducted by its Chief Vigilance Officer, wherein the concerned Chief Vigilance Officer of the respondent IOCL specifically observed that there was an erroneous selection and consequential appointment to the post of Junior Engineering Assistant-IV (P&U) (Post Code 202) with regard to posts reserved for OBC.

8. Pursuant to the same, the respondents in the IOCL in the said supplementary affidavits filed on 16.03.2023 categorically stated that as its Chief Vigilance Officer during the enquiry found about the erroneous selection made with regard to the post of Junior Engineering Assistant-IV (P&U) (Post Code 202) that led to the respondent No. 5/6 from the concerned post, the respondents IOCL in the said supplementary affidavit stated that there shall be a re-selection of the suitable candidates as per the procedure from the rejected candidates, which will also include the petitioners of WP(C) Nos. 1373/2022 and 8082/2022.

9. It is also seen that the petitioners of WP(C) Nos. 1373/2022 and 8082/2022 as well as the respondent No. 5/6 obtained Graduation in Science with Physics, Chemistry and Mathematics as their subjects.

10. The Court noticed that as per the advertisement dated 25.09.2021 with regard to the post of Junior Engineering Assistant-IV (P&U) (Post Code 202), qualification of B.Sc. (PCM) with an Apprenticeship Training in Boiler Trade is required, whereas both the petitioners as well as the respondent No. 5/6 are having only the Apprenticeship Training of Boiler Attendant.

11. The respondents in the IOCL by filing an additional affidavit in these matters shall clarify its stand as to whether the Boiler Attendant is inclusive of Boiler Trade and/or equivalent to Boiler Trade

or not.

12. The respondents in the IOCL shall file its affidavit in the matters on or before 30.10.2023, serving copy of the same on the counsels for the petitioners as well as the counsel for the other respondents. Thereafter, the petitioners and respondent No. 5/6 shall file their reply(s), if any, on or before 07.10.2023.

13. List this matter on **10.10.2023** for further consideration.

JUDGE

Comparing Assistant