

CASE NO.:
Appeal (civil) 2598-2599 of 2002

PETITIONER:
STATE OF ASSAM & ANR

RESPONDENT:
UTPAL BARUA

DATE OF JUDGMENT: 11/03/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NO. 2598-2599 OF 2002

Heard learned counsel for the appellant.

Despite of receipt of notice, neither any counsel represents the respondent nor he himself appears before this court. However, having regard to the facts and circumstances of this case, we propose to dispose of these appeals with a short order.

The post of Motor Vehicle Inspector (hereinafter 'MVI', for short) was advertised. The selection list was prepared on 17/11/1992. The said list was valid for a period of one year. It lapsed on 17/11/1993. The respondent filed a writ petition in 1996 after the lapse of selection list. This fact was pointed out to the learned single Judge hearing the writ petition. Ignoring such contention, a writ of mandamus was issued directing the appellant to appoint the respondent to the post of MVI. Aggrieved thereby, a writ appeal was preferred by the State but without any result. Hence, these appeals by special leave.

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It is unfortunate that the writ petition preferred by the respondent in 1996 was entertained well after the selection list lapsed on 17/11/1993 and even when such contention was brought to the notice of the learned single Judge, a writ of mandamus was issued directing the appellant to appoint the respondent to the post against which selection list had already lapsed. It is equally unfortunate that the Division Bench of the High Court, in appeal, affirmed the said order. It is contended by the counsel for the appellant that despite such a direction, the respondent has not been appointed as there was no vacancy.

For the reasons aforesaid, both the orders of the learned single Judge and of the Division Bench are set aside. These appeals are allowed. No costs.