

GAHC010005902023



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

Case No. : WP(C)/238/2023

UTTAM DAS
S/O SRI CHANDRA MOHAN DAS, R/O VILL-LATIBARI PT-III, P.O.-LATIBARI,
P.S.-ABHAYAPURI, DIST-BONGAIGAON, ASSAM, PIN-783384

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN-110001

2:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL
PUBLIC GRIEVANCES AND PENSIONS
NEW BLOCK
NEW DELHI
PIN-110001

3:THE STAFF SELECTION COMMISSION
REPRESENTED BY ITS CHAIRMAN
BLOCK NO. 12
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

4:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE
CGO COMPLEX
LODHI ROAD
NEW DELHI-110066

5:THE REGIONAL DIRECTOR

STAFF SELECTION COMMISSION
REGIONAL OFFICE
HOUSEFED COMPLEX
DISPUR
GUWAHATI-78100

Advocate for the Petitioner : MR. S SUTRADHAR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

18-01-2023

Heard Mr. S. Sutradhar, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned Central Government Counsel, appearing on behalf of all the respondents.

The petitioner participated in a selection process for recruitment of Constable (GD) in the Central Armed Police Forces (CAPFs), NIA & SSF and Rifleman (GD) in Assam Rifles pursuant to an advertisement dated 21.07.2018. The petitioner belongs to the Scheduled Caste category (SC). The petitioner is aggrieved for non-inclusion of his name in the select list dated 21.01.2021, published by the Staff Selection Commission.

The selection test included Physical Standard Tests (PST), Physical Efficiency Test (PET) and Written Examination. It is the case of the petitioner that though he came out successful in all segments without availing any individual and additional relaxation, his candidature has been rejected on the ground that he had taken the benefit of relaxed standard as provided to SC/ST and OBC candidates.

The further case of the petitioner is that he had secured more marks than the respective general category candidate, however, he has been refused appointment on the ground that as he availed the relaxed standards, he cannot be appointed against vacancies meant for the General category candidates.

A perusal of the advertisement dated 21.07.2018, issued by the Staff Selection Commission, makes it clear that in respect of northeastern regional candidates and SC/ST and OBC candidates separate standard were given. On the basis of such relaxed standard, the petitioner participated in the selection process.

Mr. K. Gogoi, learned Central Government Counsel appearing on behalf of all the respondents has produced the instructions received pertaining to the present case wherein it is shown that the petitioner has secured 45.75501, which is above the general category in the ITBP.

A perusal of the instructions received by Mr. Gogoi, learned Central Government Counsel indicates that the petitioner had secured higher marks than the last general candidate in so far as the ITBP is concerned. No concession was given in respect of marks in selection test to the category, in question, by giving relaxed qualifying standard in respect of height/chest of the candidates. Such relaxation enabled the candidates to participate in the examination as special category candidate and to compete with the general category candidate and secure more marks than the last general category.

Therefore, the reserved category candidates who obtain more marks than the last general category candidate requires to be considered against the vacancy meant for general category candidates inasmuch as the same is provided in the advertisement itself under Clause -10 (iii), which is the General Instructions to be complied with by the candidates.

The petitioner happened to be of the same region with relaxed standard and faced the same selection process with other candidates; therefore, the relaxation in qualifying standard for the category shall not disentitle him for consideration against the reserved vacancy if he secured more marks than the general category candidates.

In view of the discussion made hereinabove, it is directed that the respondent authority shall verify the case of the petitioner and the marks obtained by him and if he has obtained marks above the cut off mark of the last general category candidates they shall accommodate the petitioner against those posts.

Let the entire exercise be completed within a period of two months from the date of receipt of a certified copy of this order to be furnished by the petitioner.

With the above observations and directions, this writ petition is allowed.

No cost.

The instructions furnished by Mr. K. Gogoi, learned Central Government Counsel is placed on record.

JUDGE

Comparing Assistant