

GAHC010013382023



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

Case No. : WP(C)/579/2023

MONOMI SONOWAL AND 13 ORS.
D/O- PURNAA KANTA SONOWAL,
R/O- E-177, NH-52, UPAR UBAN GAON NO. 1, KAKAPATHAR,
P.O. AND P.S. KAKAPATHAR,
PIN- 786152,
DIST.- TINSUKIA, ASSAM.

2: MADHURY MUCHAHARY
D/O- SURJYA MUCHAHARY

R/O- POST OFFICE BETBARI

DIST.- BAKSA
ASSAM

PIN- 781327.

3: DEBESWAR BARMAN
S/O- SATISH CHANDRA BARMAN

R/O- VILL. HATIPOTA

P.O.- DHALIGAON
PIN- 783385

DIST.- CHIRANG
ASSAM.

4: GAUTAM BORGOHAIN
S/O- LATE SUBHA BORGOHAIN

R/O- Nowsolia Gaon
Parajit Nagar

P.O.- BARBHETA
PIN- 785004

DIST.- JORHAT
ASSAM.

5: KISHOR RAY
S/O- GANGA PRASAD RAY

R/O- ANKORBARI

P.O.- CHOTO NILIBARI
PIN- 783394

DIST.- CHIRANG
ASSAM.

6: DIPAK BARMAN
S/O- SUBAL BARMAN

R/O- SILKATARI PT-II

P.O.- BILASPUR
PIN- 783372

DIST.- KOKRAJHAR
ASSAM.

7: UTTAM BARMAN
SON OF PURNA BARMAN

R/O- DHUPGURI

P.O.- KASHIKOTRA
PIN- 783373

DIST.- CHIRANG
ASSAM.

8: DIPUMONI BORAH
S/O- ATUL CHANDRA BORAH

R/O- 197 RADHALA

P.O.- GOSAIBARI
PIN- 782142

DIST.- NAGAON

ASSAM.

9: PRANKANTA BARMAN
S/O- DHALIYA BARMAN

R/O- VILLAGE- NAYTAMARA PART-3

P.O.- BILASPUR
P.S.- BONGAIGAON

DIST.- BONGAIGAON
ASSAM.
PIN- 783372.

10: PRANDIP KONWAR
S/O- GANESH KONWAR

R/O- CHUTIAKARI
CHALIHA GAON

P.O.- CHUTIAKARI
PIN- 785004

DIST.- JORHAT
ASSAM.

11: MRIDULA RAY
D/O- BIREN CHANDRA RAY

R/O- VILLAGE PURANI BHATIPARA (PART-2)

BONGAIGAON

P.O. AND P.S. BONGAIGAON

DIST.- BONGAIGAON
ASSAM.
PIN- 783380.

12: MAHENDRA RAY
S/O- BALEN CHANDRA RAY

R/O- VILL. BARIGARA (BARCHARA BARI)

P.O. DANGAI GAON
P.S.- DHALIGAON

DIST.- CHIRANG

ASSAM

PIN- 783380.

13: RAJANI KANTA ROY
S/O- PRASAD CHANDRA ROY

R/O- VILL. 2 NO. JAMDOHA PT-I

P.O.- GERUKABARI
P.S. MANIKPUR

SUB-DIVISION- BIJNI
PIN- 783390

DIST.- BONGAIGAON
ASSAM.

14: AKRASH SUTRADHAR
S/O- LAKHAN SUTRADHAR

R/O- GERUKABARI

P.O. GERUKABARI
P.S.- MANIKPUR

DIST.- BONGAIGAON
ASSAM.
PIN- 783390

VERSUS

THE UNION OF INDIA AND 2 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI- 110001.

2:THE STAFF SELECTION COMMISSION
REP. BY ITS CHAIRMAN

BLOCK-12
4TH FLOOR
CGO COMPLEX

LODHI ROAD
NEW DELHI- 110003.

3:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
REGIONAL OFFICE
HOUSEFED COMPLEX

DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MS P BORAH

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 27/06/2023

Heard Mr. H. K. Baishya, learned counsel for the writ petitioners. Also heard Ms. R. Devi, learned CGC, appearing for the respondents.

The petitioners herein belong to the OBC and ST category. In response to the advertisement notice dated 21/07/2018 for recruitment in the post of Constable (General Duty) in the Central Armed Police Forces (CAPFs), the petitioners had submitted their candidature and had also participated in the selection process. However, on conclusion of the process, the petitioners were not selected. The basis for not doing so is on account of the fact that the marks obtained by the petitioners were considered along with the other candidates belong to the OBC category and it was observed that since the petitioners have availed the relaxation for chest and height measurement prescribed for the candidates coming from Assam, they could not be considered along with the general category candidates. However, the fact remains that the petitioners had scored more marks than some of the general category candidates, who were ultimately selected and appointed by the authorities.

Similarly situated petitioners had earlier approached this Court by filing WP(C) 3764/2021 raising a similar grievance. After taking note of the facts of the case as well as the law laid down by the Delhi High Court in ***Hemant Pokhriyal Vs. Staff Selection Commission & Ors. [WP(C) 4982/2021 decided on 01/10/2021]*** and also the decision rendered in the case of ***Arpan Chowdhury Vs. Union of India and others*** rendered by the Tripura High Court in connection with ***WP(C) 117/2021***, the learned Single Judge was of the opinion that the petitioners were entitled to

receive orders of appointment. According, the writ petition was disposed of with a direction upon the respondents to accommodate those petitioners in any of the CAPFs, within a period of three months from the date of receipt of certified copy of the order.

By referring to the order dated 11/08/2022 passed by the learned Single Judge in WP(C) 3764/2021, Mr. Baishya submits that this is a covered case and, therefore, be disposed of with a similar direction.

Ms. R. Devi, learned CGC, in her usual fairness, has conceded that the petitioners' case would be covered by the previous decision of this Court but submits that since in the meantime, all the vacant posts of Constable (GD) in the CAPFs coming under the advertisement notice dated 21/07/2018 have already been filled up, the petitioners may be accommodated in any other Armed Police Force, subject of availability of vacancies.

Mr. Baishya, learned counsel for the petitioners submits that his clients would have no objection if such a recourse is taken as long as they are issued the orders of appointment without further delay.

Taking note of the submission advanced by learned counsel for both the sides, this writ petition is hereby disposed of by providing that subject to availability of vacancies, the respondents may issue orders of appointment to the petitioners appointing them as Constable (GD) in any of the division of the Central Armed Police Forces, as expeditiously as possible, preferably within 6 (six) months from the date of receipt of a certified copy of this order.

With the above observations, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant