

GAHC010018542023



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

Case No. : WP(C)/532/2023

SANKAR NOMOSUDRA AND ANR
S/O- LATE SUBASH NOMOSUDRA, R/O- VILL- GHARAMARA, P.O-
CHAITANYANAGAR, DIST- KARIMGANJ, ASSAM, PIN- 788720

2: MANOJ SARANIA
S/O- SRI LOHIT SARANIA
R/O- VILL- DALANGDIA
P.O- BATNA
DIST- BAKSA
ASSAM
PIN- 78136

VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, NEW DELHI, PIN- 110001

2:THE UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVT OF INDIA
MIN OF PERSONNEL
PUBLIC GRIEVANCES AND PENSIONS
NEW BLOCK
NEW DELHI- 110001

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

4:THE DIRECTOR GENERAL
CRPF

CGO COMPLEX
LODHI ROAD
NEW DELHI- 110066

5:THE REGIONAL DIRECTOR
SSC
REGIONAL OFFICE
HOUSEFED COMPLEX
DISPUR
GUWAHATI- 78100

Advocate for the Petitioner : MR. S SUTRADHAR

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

B E F O R E

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

03.02.2023

Heard Mr. S Sutradhar, learned counsel for the petitioners as well as Mr. G Pegu, learned CGC for all the respondents.

2. The petitioners' case is that they had appeared in the selection process for filling up the post of Constable (GD) in the Central Armed Police Forces (CAPFs). The examinations were held in the year 2018 in pursuance to Notice dated 21.07.2018.

3. The petitioners, who belong to the SC and ST Category qualified in the PET, PST and Medical Examination.

4. The petitioners' counsel submits that as per the mark-sheets, petitioner No. 1 got 45.94207, while the petitioner No. 2 got 48.35705 marks, which was higher than the marks secured by some of the un-reserved category candidates. The petitioners'

counsel submits that the petitioners are entitled to be appointed against un-reserved category posts in terms of the judgment of the Supreme Court in the case of ***RK. Sabharwal & Ors. vs. State Of Punjab & Ors***, reported in (1995) 2 SCC 745.

5. The petitioners' counsel submits that a similar matter has been disposed of vide Order dated 18.01.2023 passed by the Court in WP(C) No. 238/2023 and accordingly, a similar direction may also be passed in the present case.

6. Mr. G Pegu, learned counsel for all the respondents, submits that he has got no objection with the prayer made by the petitioners' counsel.

7. In *WP(C) NO. 238/2023*, the reserved category candidate therein had also secured more marks than the last general category candidate and in that view of the matter, this Court had directed the respondent authorities to verify the marks of the petitioner, with the marks obtained by the last general category candidate. Thereafter, if it was found that the reserved category candidate had obtained more marks than the last selected general category candidate, the reserved category candidate (petitioner therein) was to be accommodated against the general/un-reserved category post.

8. In the present case, the question whether the petitioners secured more marks than the selected/appointed general category candidates needs to be verified by the respondents. Accordingly, in view of the above facts and keeping in view the judgment of the Supreme Court in *RK. Sabharwal & Ors. (supra)*, where it was held that reserve category candidates can compete for non-reserved posts, this Court directs the respondent Nos. 3, 4 & 5 to compare the marks of the petitioners herein, with that of the marks obtained by the un-reserved category candidates, who have been given appointment to posts pertaining to the State of Assam.

9. If it is found that the petitioners have secured more marks than the general category candidates who have been appointed, the petitioners should be accommodated by the respondents against general category posts.

- 10.** The entire exercise should be concluded within a period of 2 (months) from the date of receipt of a certified copy of this order.
- 11.** The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant