

GAHC010033392023



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

Case No. : WP(C)/1081/2023

MD. FUL MIAH AND 9 ORS
S/O- ALAUDDIN SK.,
VILL- JORDANGA BARMANPARA,
P/O AND P/S- MANKACHAR,
DIST.- DHUBRI (ASSAM).

2: AKTAR HUSSAIN
S/O- SIDDIK ALI

VILL- SONARIGAON

P/O- SONARIGAON

DIST. NAGAON
ASSAM.

3: KISHORE DAS
S/O- KANTI BUSHAN DAS

RESIDENT OF BHANGA BAZAR

P/O- KANKALASH

PS- BADARPUR

DIST.- KARIMGANJ
ASSAM.

4: INTIAZ ALI LASKAR
S/O-
VILL- BHAKATPUR (KATHAL ROAD)

P.O.- BHAKATPUR
PS- SILCHAR

DIST.- CACHAR
ASSAM.

5: RUSHON AHMED BARBHUIYA
S/O NURUL HQ BARBHUIYA
VILL- BHAKATPUR (KATHAL ROAD)

P.O.- BHAKATPUR

PS- SILCHAR
DIST.- CACHAR

ASSAM.

6: SUKUMAR SINGHA
S/O- BIR KUMAR DAS

VILL- RENGTI BOSTI

PO- JAIFORPUR
PS- SILCHAR

DIST.- CACHAR
ASSAM.

7: DILIP KR. DAS
S/O- LT. MOHAN LAL DAS

VILL. RATANPUR

PO- BOSANGAR
CACHAR.

8: NAZRUL ISLAM BARBHUIYA
S/O- AZIR UDDIN BARBHUIYA

VILL. AND P.O.- GANIRGRAM PT-2

DIST.- CACHAR.

9: ATUL CHANDRA DAS
VILL.- NIT
CAMPUS
P.S.- SILCHAR
DIST.- CACHAR.

10: ALOK SARKAR

S/O- LT. RANJIT KR. SARKAR

R/O- AMBICAPATTY
SUBHASHNAGAR

P.S.- SILCHAR
DIST.- CACHAR

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
(DEPARTMENT OF HOME),
DISPUR, GUWAHATI-6, ASSAM.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTERS

ULUBARI
GUWAHATI
ASSAM.

3:THE INSPECTOR GENERAL OF POLICE(A)
ASSAM
ULUBARI
GUWAHATI

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

29.08.2023

Heard Shri F.Z. Mazumder, learned counsel for the petitioners.

Also heard Shri T.C. Chutia, learned Addl. Senior Government Advocate appearing for all the respondents.

Considering the subject matter of this writ petition and also the nature of relief claimed, the same is taken up for disposal at the admission stage itself.

The petitioners are presently working as an Armed Branch (AB) Constable under the Assam Police. The Assam Police has two different Branches, namely, Armed Branch (AB) Constable and Un-Armed Branch (UB) Constable.

Shri Mazumder, the learned counsel for the petitioners has submitted that each year when the vacancies of Un-armed Branch Constable are filled up, 25 % of the same are allowed to be transferred from the Armed Branch in accordance with seniority and the other procedure laid down in the Rules.

It is the case of the petitioners that though they had submitted applications for their transfer to the Un-armed Branch, those applications have not been considered in the proper perspective.

The learned counsel accordingly submits that a suitable direction is required to be given to consider the cases of the petitioners for their transfer from Armed Branch to Un-armed Branch.

Shri Chutia, the learned Addl. Senior Government Advocate in his usual fairness has submitted that the exercise for transfer from Armed Branch to Un-armed Branch is done by following the Rules in which seniority plays a major part. He submits that the criteria followed is Seniority-cum-Merit and if the petitioners fit in the said criteria, their cases would definitely be considered. He however submits that in the previous exercises for such transfer, there was no deprivation as such of the petitioners as there were senior persons above them. The learned State Counsel however is not opposed to the proposal of this Court that a direction for their consideration may be granted for filling up of the vacancies in the next exercise if they otherwise meets the eligibility criteria.

In view of the aforesaid facts and circumstances and the broad consensus arrived at in the Bar by the learned counsel for the parties, the instant writ petition is

disposed of by directing the consideration of the cases of the petitioners for their transfer from Un-armed Branch to Armed Branch which however has to be done strictly in accordance with the Rules and the criteria laid down for such transfer.

JUDGE

Comparing Assistant