

GAHC010034522023



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

Case No. : WP(C)/988/2023

RAHUL NATH AND 2 ORS.
S/O LATE PURNA NATH, R/O VILL-BALAJAN TINALI, P.O.-HALTUGAON,
DIST-KOKRAJHAR, ASSAM, PIN-783370

2: MADHUJYA GOGOI
S/O SRI DIPEN GOGOI
R/O VILL AND P.O.-JELENGITUP
P.S.-BHAGAMUKH
DIST-JORHAT
ASSAM
PIN-785682

3: MADHURYA BORUAH
S/O SRI ROBIN BORUAH
R/O VILL AND P.O.-JELENGITUP
P.S.-BHAGAMUKH
DIST-JORHAT
ASSAM
PIN-78568

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. B ZAMAN

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

19.07.2023

Heard Mr. S. Sutradhar, learned counsel for the writ petitioners. Also heard Mr. S. S. Roy, learned CGC, appearing for the respondents.

The three petitioners herein belong to the OBC 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 candidatures 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 was considered along with the other candidates belong to the OBC category and it was observed that since the petitioners had 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 W.P.(C) No. 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. SSC & Ors. [WP(C) 4982/2021 decided on 01-10-2021]** and also the decision rendered in the case of **Arpan Chowdhury Vs. UoI & Ors.** rendered by the Tripura High Court in connection with **W.P.(C) No.117/2021**, the learned Single Judge was of the opinion that the petitioners were entitled to receive orders of appointment. Accordingly, 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 W.P.(C) No. 3764/2021, Mr. Sutradhar submits that this is a covered case and, therefore, be disposed of with a similar direction.

Mr. S. S. Roy, learned CGC, in his 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.

Mr. Sutradhar, 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 with 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 vacancy, 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 or in any other Armed Police Force, 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

Comparing Assistant