

GAHC010037752021



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

Case No. : WP(C)/2135/2021

PINKU ROY AND 26 ORS
S/O SAMBHU ROY, R/O VILL-SOUTH TOKRERCHARA PT-II, P.O. AND P.S.-
GOLAKGANJ, DIST-DHUBRI, ASSAM, PIN-783334

2: JYOTISH CHANDRA RAY
S/O SADANANDA RAY
R/O VILL-KHEKSIALY
P.O.-DEBOTTOR HENDAHA
P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

3: KINGSHUK MAHANTA
S/O BISHNU MAHANTA
R/O VILL-BALAJAN
P.O.-BALAJAN
P.S.-GAURIPUR
DIST-DHUBRI
ASSAM
PIN-783331

4: PARMESWAR ROY
S/O SOSHI MOHAN ROY
R/O VILL-NALIA PT-III
P.O.-DIMAKURI
P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

5: BIKRAM ROY
S/O LAKHI KANTA ROY
R/O VILL-PUB-GAIKHOWA

P.O. AND P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

6: GAURANGA ROY
S/O KHITIN ROY
R/O VILL-JHASKAL PT-III
P.O.-JHASKAL
P.S.-AGOMANI
DIST-DHUBRI
ASSAM
PIN-783335

7: RAHUL RAY
S/O NIRENDRA NATH RAY
R/O VILL-BATUATOLI
P.O.-DEBOTTAR HASDAHA
P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

8: KHANINDRA RAY
S/O BINOD CHANDRA RAY
R/O VILL-GAIKHOWA PT-II
P.O. AND P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

9: RABIN CHANDRA ROY
S/O DINESH CHANDRA ROY
R/O VILL-LAKHIMARI PT-III
P.O.-LAKHIMARI
P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

10: DHANJIT RAY
S/O HITESHWAR RAY
R/O VILL-SOULMARI PT-II
P.O.-KACHARIGHAT
P.S.-DHUBRI
DIST-DHUBRI
ASSAM
PIN-783334

11: KESHAB CHANDRA RAY
S/O AMULYA KUMER ROY
R/O VILL-DEBOTTAR HASDAHA PT-II
P.O.-KACHARIGHAT
P.S.-DHUBRI
DIST-PIN-783334

12: BHAGIRATH ROY
S/O DWIPEN ROY
R/O VILL-PUB-GAIKHOWA
P.O. AND P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

13: MRIDUL RAY
S/O BIBHASH RAY
R/O VILL-BALAJAN PT-I
P.O.-BALAJAN
P.S.-GAURIPUR
DIUST-DHUBRI
ASSAM
PIN-783331

14: RAJU MONDAL
S/O UPEN MANDOL
R/O VILL-JHASKAL
P.O.-JHASKAL
P.S.-AGOMANI
DIST-DHUBRI
ASSAM
PIN-783335

15: RAJU ROBI DAS
S/O LAKSHMILAL ROBI DAS
R/O VILL-GERAMARI PT-V
P.O.-GERAMARI
P.S.-GAURIPUR
DIST-DHUBRI
ASSAM
PIN-783132

16: DHANI RAM RAY
S/O MOHESH CHANDRA ROY
R/O VILL-BHER BHERI
P.O.-TAMARHAT
P.S.-TAMARHAT

DIST-DHUBRI
ASSAM
PIN-783332

17: ARJUN CHANDRA ROY
S/O DHANANJOY CHANDRA ROY
R/O VILL-DEBOTTAR RAIPUR
P.O.-GERAMARI
P.S.-GAURIPUR
DST-DHUBRI
ASSAM
PIN-783339

18: SHIV KANTA ROY
S/O LT. BIREN CHANDRA ROY
R/O VILL-BHOгдаHAR
P.O.-PATAMARI
P.S.-DHUBRI
ASSAM
PIN-783324

19: INDROJIT CHANDRA ROY
S/O HALESWAR ROY
R/O VILL-BHOGDANGA
P.O.-DIMAKURI
P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

20: RANJIT BARMAN
S/O RADHA KANTA BARMAN
R/O VILL-NO. 2 SOUTH MUSALMAN PARA
P.O.-KAMALSING
P.S.-GOSSAIGAON
DIST-KOKRAJHAR
ASSAM
PIN-783336

21: BHASKAR DAS
S/O HAREN DAS
R/O VILL-GAURIPUR
LAWKHOARPAR
P.O.-GAURIPUR
P.S.-GAURIPUR
DIST-DHUBRI
ASSAM
PIN-783331

22: DIPANKAR SARKAR
S/O AJIT CHANDRA SARKAR
R/O VILL-MADAIKHALI
P.O. AND P.S.-ASHARIKANDI
DIST-DHUBRI
ASSAM
PIN-783331

23: JAYANTA BARMAN
S/O UPEN CHANDRA BARMAN
R/O VILL AND P.O.-BISHKHOWA
P.S.-GOLOKGANJ
DIST-DHUBRI
ASSAM
PIN-7883334

24: BHARAT SINGH
S/O BHAKTA RANJAN SINGH
R/O VILL-KANURI PT-III
P.O.-BISHKHOWA
P.S.-GOLOKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

25: BUDHA DEB SUTRADHAR
S/O SWAPAN KUMAR SUTRADHAR
R/O VILL-SAPATGRAM
WARD NO. 1
P.O. AND P.S.-SAPATGRAM
DIST-DHUBRI
ASSAM
PIN-783337

26: MINTU ROY
S/O NARAYAN CH. ROY
R/O VILL-SOUTH TOKRERCHARA P9-3
P.O. AND P.S.-GOLAKGANJ
DIST-DHUBRI
ASSAM
PIN-783334

27: PANKAJ ROY
S/O NRIPEN ROY
R/O VILL-SOUTH TOKRERCHARA PT-2
P.O. AND P.S.-GOLAKGANJ
DIST-DHUBRI

ASSAM
PIN-78333

VERSUS

THE UNION OF INDIA AND 3 ORS
THE DEPARTMENT OF MINISTRY OF HOME AFFAIRS, NORTH BLOCK,
CENTRAL SECRETARIAT, NEW DELHI, PIN-110001, REPRESENTED BY THE
SECRETARY, GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS

2:THE CHAIRMAN
THE STAFF SELECTION COMMISSION
BLOCK NO. 12
4TH FLOOR
CGO COMPLEX
LODHI ROAD
NEW DELHI
PIN-110003

3:THE UNDER SECRETARY
THE STAFF SELECTION COMMISSION
BLOCK NO-12
4TH FLOOR
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

4:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
THE NORTH EAST REGION OF INDIA
THE REGIONAL OFFICE AT DISPUR HOUSEFED COMPLEX
WIRELESS
GUWAHATI-06
DIST-KAMRUP(M)
ASSAM-78100

Advocate for the Petitioner : MR S K SARKAR

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

04/08/2023

Heard Mr. H.R. Ahmed, learned counsel for the writ petitioners and Mr. B. Sarma, learned CGC, appearing for the respondents.

2. The petitioners herein belong to Other Backward Classes (OBC) and Scheduled Caste (SC) categories. All the petitioners had participated in the selection process for recruitment of Constables (General Duty) in Border Security Force (BSF), Central Industrial Security Forces (CISF), Central Reserve Police Force (CRPF), Indo Tibetan Border Police (ITBP), Sashastra Seema Bal (SSB), National Intelligence Agency (NIA) and Secretariat Security Force (SSF) and Rifle Man (General Duty) in Assam Rifles. Such selection process was initiated by Staff Selection Commission by its advertisement dated 21.07.2018. However, on conclusion of the process, the petitioners were not selected despite having scored more marks than the unreserved candidates and no appointment orders were issued to the petitioners.

3. 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 be appointed. Accordingly, the writ petition was disposed of with a direction to 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.

4. By referring to the order dated 11/08/2022 passed by the learned Single

Judge in WP(C) 3764/2021, Mr. Ahmed submits that the issues raised in this writ petition will be covered by the order passed in W.P.(C) No. 3764/2021 and, therefore, he submits that this writ petition be disposed of with a similar direction.

5. Mr. B. Sarma, learned CGC, in his usual fairness, submits that the petitioners' case would be covered by the previous decision of this Court but since in the meantime, all the vacant posts of Constables (General Duty) in Border Security Force (BSF), Central Industrial Security Forces (CISF), Central Reserve Police Force (CRPF), Indo Tibetan Border Police (ITBP), Sashastra Seema Bal (SSB), National Intelligence Agency (NIA) and Secretariat Security Force (SSF) and Rifle Man (General Duty) in Assam Rifles coming under the advertisement notice dated 21/07/2018 have already been filled up, the petitioners may be accommodated in any other division of Armed Police Force.

6. Mr. H.R. Ahmed, learned counsel for the petitioners submits that the petitioners will have no objections if such recourse is taken so long as they are issued the orders of appointment without further delay.

7. After perusal of the order dated 11.08.2022 passed by this Court in W.P.(C) No. 3764/2021 and also the Judgment of the Division Bench of Delhi High Court in W.P.(C) No. 4982/2021 (Hemant Pokhriyal Vs. Staff Selection Commission & Ors) as well as Judgment dated 07.12.2021 passed by the Tripura High Court in W.P.(C) No. 117/2021 (Arpan Chowdhury Vs. Union of India & Ors) and also taking note of the submissions advanced by the learned counsels for the parties, this Court finds that the matter is covered. Accordingly, this Court is of the view that the respondents cannot disentitle the petitioners for consideration against Other Backward Classes (OBC) and Scheduled Caste (SC) vacancies if they have secured more marks than the last selected Other Backward Classes (OBC) and

Scheduled Caste (SC) category candidates.

8. In view of the reasons stated above, the respondents are directed to accommodate the petitioners and appoint them in vacant posts of Constables (General Duty) in any Central Armed Police Force within a period of three (3) months from the date of receipt of a certified copy of this order, after verifying whether the petitioners have secured higher marks than the last selected general category candidates.

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

JUDGE

Comparing Assistant