

GAHC010057202021



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

Case No. : WP(C)/2290/2021

MANIK DAS AND 22 ORS
S/O. DILIP DAS, VILL. RANGLI BAHAR ONE, DIST. MAJULI, P.O. BHAKATI
DUAR, P.S. JENGRAIMUKH, ASSAM, PIN-785110.

2: HIROK JYOTI DAS
S/O. BINAY DAS
VILL. BISHNUPUR
DIST. BONGAIGAON
P.O. NAYAGAON
P.S. JOGIGHOPA
ASSAM
PIN-783384.

3: GANESH CHANDRA MONDAL
S/O. AMULLYA CHANDRA MONDAL
VILL. KAHIBARI
DIST. BONGAIGAON
P.O. KIRTANPARA
P.S. ABHAYAPURI
ASSAM
PIN-782284.

4: PROTIMA DAS
D/O. SUNIL CHANDRA DAS
VILL. BADARPUR OLD FIELD COLONY
DIST. KARIMGANJ
P.S. BADARPUR ASSAM
PIN-788806.

5: NIKHIL BAIDYA
S/O. BOLORAM BAIDYA
VILL. BHELOWGURI
DIST. NAGAON
P.O. MODERTOLI

P.S
DOBOKA
ASSAM
PIN-782440.

6: NIRMAL BAIDYA
S/O. BALORAM BAIDYA
VILL. BHELOEGURI
DIST. NAGAON
P.O. MADERTOLI
P.S. DOBOKA
ASSAM
PIN-782440.

7: BIRUSAN DAS
S/O. HARIPRASAD DAS
VILL. BHEBELI
DIST. DHEMAJI
ASSAM
PIN-787034.

8: BIDHAN DAS

S/O. DILIP KUMAR DAS
VILL. DOYAPUR PART-II
DIST. CACHAR
P.O. UDHARBOND
P.S. UDHARBOND
ASSAM
PIN-788030.

9: ARUN BISWAS
S/O. PARIMAL BISWAS
VILL. MOWAMARI
DIST. NAGAON
P.O. KHURIMARI
P.S. ULUWANI
ASSAM
PIN-782143.

10: MANURANJAN NAMADAS
S/O. SUBUDH NAMADAS
VILL. LAKHANABANDHA
DIST. NAGAON
P.O. KHURIMARI
P.S. ULUWANI
ASSAM
PIN-782143.

11: AJOY ARJYA
S/O. MADAN ARJYA
VILL. KIRTAN PARA PART-II
DIST. BONGAIGAON
P.O. KIRTAN PARA
P.S. ABHAYAPURI
ASSAM
PIN-783384.

12: KANAK NAMODAS
S/O. MANORANJAN NAMODAS
VILL. MISSAMUKH
DIST. NAGAON
P.O. MISSA
P.S. KALIABOR
ASSAM
PIN-782138.

13: KUNJAN DAS

S/O. PHULEN DAS
VILL. NALIAPARA
DIST. BARPETA
P.O. BHETHUA
P.S. PATACHARKUCHI ASSAM
PIN-781325.

14: DHANANJOY DAS
S/O. SUNIL DAS
VILL. MISSAMUKHPAM
DIST. NAGAON
P.O. MISSA
P.S. ULUWANI
ASSAM
PIN-782138.

15: DEVASHIS HALDER
S/O. LT. NRIPENDRA NATH HALDER
VILL. MISSA
DIST. NAGAON
P.O. MISSA
P.S. KALIBOR
ASSAM
PIN-782138.

16: PARAG JYOTI DAS
S/O. PREMANANDA DAS

VILL. BHAKAT KOIBARTTA
DIST. DHEMAJI
P.O. HOLLOWDANGA
P.S. GOGAMUKH
ASSAM
PIN-787026.

17: PRASENJIT DAS
S/O. ANANDA DAS
VILL. CHARALPARA
DIST. BARPETA
P.O. BHOUKAMARI
ASSAM
PIN-781325.

18: DULAL BISWAS
S/O. GOPAL BISWAS
VILL. MOWAMARI
DIST. NAGAON
P.O. KURHIMARI
P.S. ULUANI
ASSAM
PIN-782143.

19: SUKLESHWAR DAS
S/O. RAM MOHAN DAS
VILL. LONGJAT 500 ACOR
DIST. NAGAON
P.O. BORPANI
P.S. KACHUA
ASSAM
PIN-782450.

20: MANESWAR DAS
S/O. MADHAB DAS
VILL. GOSAIBARI
DIST. GOALPARA
P.O. GOSAIBARI
P.S. MATIA
ASSAM
PIN-783125.

21: BISWANATH ARJYA
S/O. SANKAR ARIYA
VILL. KIRTANPARA PART-II
DIST. BONGAIGAON
P.O. KIRTANPARA
P.S. ABHAYAPURI

ASSAM
PIN-783384.

22: RUPAK MALI
S/O. RAMESH MALI
VILL. 2 NO. BALASIDDHI
DIST. KAMRUP
P.O. CHHAYGAON
P.S. CHHAYGAON
ASSAM
PIN-781124.

23: NIBEDAN DAS

S/O. ACHYUT CHANDRA DAS
VILL. KULHATI
DIST. KAMRUP
P.O. KULHATI
P.S. HAJO
ASSAM
PIN-781104

VERSUS

THE UNION OF INDIA AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF INDIA, MINISTRY OF
HOME AFFAIRS, NEW DELHI-110001.

2: UNION OF INDIA
REP. BY ITS SECRETARY
MINISTRY OF PERSONNEL PENSION AND PUBLIC GRIEVANCE
DEPTT. OF PERSONNEL AND TRAINING
NORTH BLOCK
NEW DELHI-110001.

3: STAFF SELECTION COMMISSION

REP. BY THE CHAIRMAN
LODHI ROAD
BLOCK NO.12
CGO COMPLEX
NEW DELHI-110003.

4: REGIONAL DIRECTOR (NER)

STAFF SELECTION COMMISSION
HOUSEFED COMPLEX
LAST GATE- BASISTHA ROAD

P.O. ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. K KONWAR

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 26-04-2023

Heard Mr. R. Sarma, learned counsel for the writ petitioner. Also heard Ms. A. Gayan, learned CGC appearing for the respondents.

The writ petitioner numbering 23 in total had earlier participated in the recruitment process for appointment as Constable (GD) in Central Armed Police Force (CAPFs), in the NIA and SSF as well as Rifleman (GD) in the Assam Rifles. The selection process was conducted by the Staff Selection Commission (SSC) in terms of the advertisement notice dated 21-07-2018. All the writ petitioners hail from the northeastern region and belong to the reserved category of candidates. During the selection process, some relaxation was given to the petitioners in respect of physical standards insofar as measurement of their chest and heights etc. are concerned as per the notified policy of the respondents. On conclusion of the selection process, the petitioners claim to have scored more marks than the general category of candidates. However, their names were not included in the final select list allegedly on account of the fact that having already availed relaxation in measurement of their chest/ height, the petitioners could not claim further relaxation.

Mr. Sarma submits that the aforesaid aspect of the matter came up for consideration before this Court in number of writ petitions, wherein this Court had clarified that relaxation in chest measurement and height given to the candidates coming from northeastern region cannot take away their claim for appointment based on merit position and therefore, the impugned action on the part of the respondent authority in not including the name of the writ petitioners in the select list on merit basis was illegal.

By producing a copy of the order dated 07-06-2022 passed in W.P.(C) No. 1684/2021 and another order dated 25-01-2023 passed by this Court in W.P.(C) No. 74/2023, Mr. Sarma submits that the petitioner Nos. 2, 3, 7, 10, 11, 13, 16 and 18 would be entitled to a similar order directing the authorities to consider their cases on merit and accommodate them against the available vacancies. The aforesaid orders were passed by this Court by taking note of the law laid down in the case of ***Hemant Pokhriyal Vs. SSC & Ors.*** passed ***in W.P.(C) No. 4982/2021*** decided on 01-10-2021.

Ms. A. Gayan, learned CGC submits on instruction that as per records only the petitioner Nos. 2, 3, 7, 10, 11, 13, 16 and 18 would be entitled to the benefit of similar orders passed by this Court earlier.

By the order dated 07-06-2022, the learned Single Judge while relying upon the decision rendered in the case of ***Hemant Pokhriyal (Supra)*** had made the following directions:-

“14. In the aforesaid backdrop, this writ petition is allowed. As posts were kept vacant under interim orders of this Court, it is directed that the respondent authorities should accommodate the petitioners, against those vacancies. While doing so, the respondent authority will verify the case of the petitioners herein and

their marks and if they have obtained marks above the cut off mark of last general category candidates, as discussed herein above, they will be accommodated against those posts. The entire exercise shall be completed within a period of six weeks from the date of receipt of a certified copy of this order to be furnished by the petitioners."

In another order passed in W.P.(C) No. 74/2023, this Court had passed similar order on 25-01-2023 with the following directions:

"Taking note of the submission advanced by learned counsel for both the sides, this writ petition is hereby disposed of by providing that 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."

In view of the stand of the learned CGC as noted above and considering the earlier orders passed by this Court in similar matters, I dispose of this writ petition with a direction that the cases of the writ petitioners shall also be considered in the light of the observations made hereinabove within 06 months from the date of receipt of a certified copy of this order and necessary order of appointment be issued in favour of the candidates who are found to be entitled to the same on merit.

The writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant