

GAHC010058242021



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

Case No. : WP(C)/2090/2021

HIMANGSHU ROY AND 39 ORS
S/O MAHADEV ROY, VILLAGE ROHA, P.O. CHAK CHAKA, P.S. SORBHOG,
DISTRICT BARPETA, ASSAM

2: HARDEEP BAISHYA
SON OF HITESH BAISHYA
RESIDENT OF VILLAGE BANAIYA GAON
P.O. NITAYANADA
P.S. PATACHARKUCHI
DISTRICT BARPETA
ASSAM
PIN 781329

3: PRADEEP KUJUR
SON OF LAXMAN KUJUR
RESIDENT OF VILL. JERENGPARA
P.O. KALPANI BAZAR
P.S. GOBARDHAN
DISTRICT BAKSA
ASSAM
PIN 781315

4: RAM KUMAR NUNIA
S/O LATE. HIRALAL NUNIA. VILL BEHUL
P.O SINGALLA
DIST HAILAKANDI
ASSAM

5: BISWANATH SAHU
S/O LATE. NARESH SAHU
VILL KOYAH T.E
P.O KOYAH
DIST HAILAKANDI
ASSAM

6: BISHAL KAIRI
S/O JAHARLAL KAIRI
VILL KOYAH T.E
P.O KOYAH
DIST HAILAKANDI
ASSAM.

7: MANGAL SUKLABAIDYA
S/O SIT NARAYAN SUKLABAIDHYA
VILL KOYAH T.E
P.O KOYAH
DIST HAILAKANDI
ASSAM

8: PRASENJIT ROY
S/O TARACHAND ROY
VILLAGE KAUNIABHASA
P.O. KALIPURKHURI
DISTRICT KOKRAJHAR
ASSAM

9: MALIN CHANDRA BARMAN
S/O DHANESWAR CH. BARMAN
RESIDENT OF VILLAGE AND AMTOLI
P.O. CHITILA
DISTRICT KOKRAJHAR
ASSAM

10: SIBA RAJWAR
S/O NARAYAN RAJWAR. VILLAGE KOYAH T.E. P.O KOYAH
DIST HAILAKANDI
ASSAM.

11: ASHOK CHOUHAN
S/O RAMAKANTA CHOUHAN
VILL GERUKABARI
P.O GERUKABARI
DIST BONGAIGAON
ASSAM

12: TIKEN BASUMATARY
S/O DHARMESWAR BASUMATARY
VILL PUB BARALA. P.O GOLIBANDHA
DISTRICT BARPETA
ASSAM

13: CHANDAN RABI DAS

SO RAMPADA RABI DAS
VILLAGE AND GUAGACHA
P.O. GUAGACHA
DISTRICT BARPETA
ASSAM

14: NIRJU MANI DAS
S/O LATE. MAHENDRA KABIRAJ
VILLAGE AND DAKSHIN REHABARI
P.O. PUB REHABARI
DISTRICT BARPETA
ASSAM

15: DHANJIT ROY
S/O DWIGEN ROY
VILLAGE AND P.O. BHOTANTA MOHITARA
DISTRICT BARPETA
ASSAM

16: JINTU ROY
S/O MRINAL ROY
R/O BANDHASIDHANI
P.O. BAGHMARA BAZAR
P.S. PATACHARKUCHI
DISTRICT BARPETA
ASSAM

17: HRISHIRAJ KALITA
S/O AMEN KALITA
R/O AND BHOTANTA SADERI
P.O. BHOTANTA SADERI
DISTRICT BARPETA
ASSAM

18: BIKASH BASUMATARY
S/O PRABAL BASUMATARY
VILL BHOTANTA MAHITARA
P.O. BHOTANTA SADERI
DISTRICT BARPETA
ASSAM.

19: HIMANSHU ROY
S/O HEMANTA ROY
VILLAGE AND P.O. BHOTANTA MOHITARA
DISTRICT BARPETA
ASSAM

20: AJAY DAS

S/O PABAN DAS
VILLAGE AND P.O BHOTANTA MAHITARA
DISTRICT BARPETA
ASSAM

21: RUPAM BASUMATARY
S/O BUDDHA BASUMATARY
VILLAGE BAR SADERI
P.O. BHOTANTA SADERI
DISTRICT BARPETA
ASSAM

22: MANJIT BASUMATARY
S/O DHANU BASUMATARY
VILLAGE BHOTANTA MAHITARA
P.O. BHOTANTA SADERI
DISTRICT BARPETA
ASSAM

23: PRANAB BHARALI
S/O AMRIT BHARALI
VILLAGE AND UJANKURI
P.O. UJANKURI
DISTRICT KAMRUP
ASSAM

24: CHINTUMANI DEKA
S/O PANESWAR DEKA
VILLAGE AND UJANKURI
P.O. AND P.S. HAJO
DISTRICT KAMRUP
ASSAM

25: GITANJALI RAHANG
D/O BALISING RAHANG
RESIDENT OF VILLAGE AND REWMAHESWAR P.O. MALAYBARI
DISTRICT KAMRUP
ASSAM

26: JAYANTA DAS
S/O HARESWAR DAS
VILLAGE AND CHENGMAI
P.O. KASHIPARA BHOTGAON
DISTRICT KOKRAJHAR
ASSAM

27: BIMAL ROY
S/O AJIT CHANDRA ROY

RESIDENT OF VILLAGE AND JAREGAON
P.O. KALIPUKHURI
P.S. KOKRAJHAR
DISTRICT KOKRAJHAR
ASSAM

28: RAHUL BARMAN
S/O HIREN BARMAN
VILLAGE BAMUNIGAON
P.O. SALAKATI
DISTRICT KOKRAJHAR
ASSAM

29: DEBOJIT BARMAN
S/O SAMBARU BARMAN
VILLAGE CHARAIKHOLA
P.O. CHARAIKHOLA
DISTRICT KOKRAJHAR
ASSAM

30: AMARJYATI ROY
S/O BILASH CH. ROY
VILLAGE JAMADARPARA
P.O. RAINADABRI
DISTRICT KOKRAJHAR
ASSAM

31: BHAGYA BANTA SINGHA
S/O CHITTARANJAN SINHA
VILLAGE LALTARI
P.O. KALIPUKHURI
DISTRICT KOKRAJHAR
ASSAM

32: ALAKESH NATH
S/O NIRANJAN NATH
VILLAGE RAINADABRI
P.O. RAINADABRI
DISTRICT KOKRAJHAR
ASSAM

33: PRANJAL LALUNG
S/O DEBKANTA LALUNG
VILLAGE MAJGAON
P.O. MAJGAON
DISTRICT NAGAON
ASSAM

34: PURNA KANTA NATH
S/O BULAN NATH
VILLAGE AMARAWATI
P.O. KHAPLANG KUCHI
DISTRICT NAGAON
ASSAM

35: NITA TERONPI
D/O PHULAK TERON
VILLAGE CHAIBUKGAON
P.O. GARUKHANDA
P.S. KAMPUR
DISTRICT NAGAON
ASSAM

36: SANTI MAI TERANGPI
D/O KAML TERANG
VILLAGE AND CHAIBUKGAON
P.O. GARUKHANDA
DISTRICT NAGAON
ASSAM

37: DIPJYOTI DAS
S/O BHADRAKANTA DAS
VILLAGE AND RANGSA SHILA
P.O. MACHKHOWA
P.S. DHEMAJI
DISTRICT DHEMAJI
ASSAM

38: ABBAS ALI BHUIYAN
S/O BAKKAR ALI BHUIYAN
VILL BHANDARA NO.4.P.O BHANDARA BAZAR
DIST BONGAIGAON
ASSAM

39: JAHIDUL ISLAM
S/O SORHAB ALI. VILL BALAR PET
P.O TILUPUKHURI
DIST BONGAIGAON. ASSAM

40: PRANJIT DAS
S/O KANDURA DAS
VILL PERAGAON. P.O SULIAKATA
DIST BARPETA
ASSA

VERSUS

THE UNION OF INDIA AND 8 ORS
REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI 110001.

2:THE STAFF SELECTION COMMISSION
REPRESENTED BY ITS CHAIRMAN/SECRETARY STAFF SELECTION
COMMISSION
BLOCK 12
CGO COMPLEX
LODHI ROAD
NEW DELHI 110003

3:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
RUKHIMINI NAGAR
ASSAM SACHIVALAYA
DISPUR
GUWAHATI 06

4:THE DIRECTOR GENERAL
BORDER SECURITY FORCE (B.S.F) BLOCK NO.10
LODHI ROAD
PRAGATI VIHAR
NEW DELHI 110003

5:THE DIRECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE (C.I..S.F) BLOCK NO.13
CGO COMPLEX
NEW DELHI 110003

6:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE (C.R..P.F) BLOCK NO.13
LODHI ROAD
NEW DELHI 110003

7:THE DIRECTOR GENERAL
ASSAM RIFLES
NONGRIMMAW
LAITUMUKHRAH
GORALINE SHILLONG
MEGHALAYA 793011

8:THE DIRECTOR GENERAL
INDO TIBETAN BORDER FORCE
(I.T.B.F) CENTRAL RESERVE POLICE FORCE (C.R..P.F)
BLOCK NO.10

CGO COMPLEX
LODHI ROAD
NEW DELHI 110003

9:THE DIRECTOR GENERAL
SHASASTRA SEEMA BAL (S.S.B)
5 6
VIVEKANANDA MARG EAST BLOCK
R.K. PURAM
NEW DELHI 11002

Advocate for the Petitioner : MR F A LASKAR

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

31.03.2023

Heard Mr. F.A. Laskar, learned counsel for the writ petitioners and Ms. B. Sarma, learned CGC, appearing for the respondents.

2. The petitioners herein belong to reserved category. All the petitioners had applied under the reserved category except the petitioners No. 7, 13 & 14 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 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. Laskar 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. Ms. B. Sarma, learned CGC, in her 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 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 division of Armed Police Force.

6. Mr. F.A. Laskar, 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 general category vacancies if they have secured more marks than the last selected general 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 Constable (GD) 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