

GAHC010062632023



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

Case No. : WP(C)/1644/2023

AKASH SARKAR
S/O- ANANDA SARKAR,
VILL. NO. 2 TANGLA,
P.O.- BHOUKAMARI,
P.S.- PATACHARKUCHI,
DIST. BARPETA, ASSAM,
PIN- 781325.

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF INDIA,
MINISTRY OF HOME AFFAIRS,
NEW DELHI- 110001.

2:UNION OF INDIA
REPRESENTED BY ITS SECRETARY

MINISTRY OF PERSONNEL PENSION AND PUBLIC GRIEVANCE

DEPARTMENT OF PERSONNEL AND TRAINING
NORTH BLOCK

NEW DELHI- 110001.

3:STAFF SELECTION COMMISSION
REPRESENTED 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 : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 28/04/2023

Heard Mr. R. Sarma, learned counsel for the writ petitioner. Also heard Mr. S.S. Roy, learned CGC, appearing for the respondents.

The petitioner herein belongs 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 petitioner had submitted their candidature and had also participated in the selection process. However, on conclusion of the process, the petitioner was not selected. The basis for not doing so is on account of the fact that the marks obtained by the petitioner was considered along with the other candidates belong to the OBC category and it was observed that since the petitioner has availed the relaxation for chest and height measurement prescribed for the candidates coming from Assam, he could not be considered along with the general category candidates. However, the fact remains that the petitioner 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 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 receive orders of appointment. According, 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 *WP(C) 3764/2021*, Mr. Sarma 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 petitioner's 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 petitioner may be accommodated in any other Armed Police Force.

Mr. R. Sarma, learned counsel for the petitioner submits that his client would have no objection if such a recourse is taken as long as he is issued the order 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 the respondents may issue orders of appointment to the petitioner appointing him 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

sukhamay

Comparing Assistant