GAHC010138222023

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

Case No. : WP(C)/3708/2023

NIKUNJA BARMAN
S/O- DIPAK KUMAR BARMAN, R/O- VILL.- SILIKHAGURI, P.O. SILIKHAGURI, P.S. PANBARI, DIST. CHIRANG, ASSAM, PIN- 783390. (ROLL NO. 5105019570).

VERSUS

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

2:THE STAFF SELECTION COMMISSION (SSC)
REPRE
REPRESENTED BY THE CHAIRMAN/SECRETARY
STAFF SELECTION COMMISSION
BLOCK-12
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003.

3:THE REGIONAL DIRECTOR (NER)

STAFF SELECTION COMMISSION
RUKMINI NAGAR
GUWAHATI-06.

4:THE DIRECTOR GENERAL
BORDER SECURITY FORCE (BSF)

BLOCK NO. 10
LODHI ROAD
PRAGATI VIHAR

NEW DELHI-110003.

5:THE DIRECTOR GENERAL

CENTRAL INDUSTRIAL SECURITY FORCE (CISF)
BLOCK NO. 13
CGO COMPLEX
NEW DELHI-110003.

6:THE DIRECTOR GENERAL

CENTRAL RESERVE POLICE FORCE (CRPF)
CGO COMPLEX 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 (ITBP) BLOCK NO. 10
LODHI ROAD
NEW DELHI-110003.

9:THE DIRECTOR GENERAL

SHAHASARA SEEMA BAL (SSB)
5-6
VIVEKANANDA MARG EAST BLOCK
R.K. PURAM
NEW DELHI-110022

Advocate for the Petitioner : MR. K R PATGIRI

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

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 26-06-2023

Heard Mr. K.R. Patgiri, learned counsel for the writ petitioners. 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 his 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 had 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 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. 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 W.P.(C) No. 3764/2021, Mr. Ahmed submits that this is a covered case and, therefore, be disposed of with a similar direction.

Mr. 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, it may be difficult to accommodate the petitioner at this stage.

Mr. Patgiri, learned counsel for the petitioner submits that in similar matters, this Court had earlier issued direction to consider the case of the writ petitioners.

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 order 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

GS

Comparing Assistant