

GAHC010161502011



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

Case No. : WP(C)/4632/2011

MD. SHAFIKUL ISLAM DEWAN
ROLL NO. 095180009844, S/O KASHIM UDDIN DEWAN, VILL AND P.O.
VAIRAGURI, DIST BARPETA, ASSAM, PIN-781309

VERSUS

THE UNION OF INDIA and ORS
REP BY THE SECY, MINISTRY OF HOME AFFAIRS, NEW DELHI-110001

2:THE DIRECTOR GENERAL

CRPF
CENTRAL GOVT. OFFICE COMPLEX
NEW DELHI-110003

3:THE INSPECTOR GENERAL OF POLICE

CRPF
NORTH EASTERN SECTOR
STONEY-HEAVEN
BISHOP COTTON ROAD
SHILLONG
MEGHALAYA-793001

4:THE DY. INSPECTOR GENERAL OF POLICE

CRPF
GROUP CENTER
AMERIGOG
9TH MILE
GUWAHATI
ASSAM

PIN-78102

For the Petitioner : Mr. R. Mazumdar, Advocate.

For the Respondents : Ms. R. Devi, CGC (R-1).

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER**

08.08.2023

The instant writ petition has been filed by the Petitioner seeking a direction upon the Respondents to appoint the Petitioner as a CT/GD in the normal wastage vacancy in terms with the Circulars dated 15.07.2005 and 08.09.2005 of the Director General, CRPF.

2. The case of the Petitioner is that pursuant to an advertisement No. 1 of the year 2009 for filling up of vacancies in the rank of Constable General Duty in the Central Reserve Police Force, he submitted his application. The Petitioner was allotted Roll No. 09513280009844. It is the case of the Petitioner that the Petitioner appeared before the recruitment board and participated in the Physical Standard Test and the Physical Efficiency Test and successfully qualified the same. Thereupon he was called to participate in the written test. The Petitioner also claims that he had successfully passed the written test and secured his position in the merit list prepared by the Respondents subsequent to the written test. Subsequent thereto, the Petitioner was also called for the medical test to be held on 12.01.2010 at the Group Centre, CRPF, Amerigog, Guwahati. The Petitioner appeared on 12.01.2010 in the medical test. However, he was declared to be unfit due to defective vision, varicose vein, cubitus vulgus and bow legs. The Petitioner thereupon preferred an appeal against the

rejection on medical grounds and on appeal it was decided in favour of the Petitioner that the Petitioner was not medically unfit. It is under such circumstances, the Petitioner claimed that he should be accommodated against the wastage vacancy in terms with the Circulars dated 15.07.2005 and 08.09.2005 of the Director General, CRPF. The Petitioner's further case is that the Respondent Authorities did not consider his case for appointment in terms with the said Circulars against the wastage vacancy. It is under such circumstances, the Petitioner filed the written petition on 5th of September, 2011. It reveals from the records that this Court had issued notice dated 19.09.2011.

3. The records further reveal that the Respondent Nos. 1 to 4 had filed their affidavit-in-opposition. In the said affidavit-in-opposition, it was mentioned that the Petitioner was a General Category candidate and in the merit list the last selected General Category candidate obtained 43 marks whereas the Petitioner obtained only 40 marks and as such the Circulars referred to by the Petitioners thereby claiming a direction for being appointed in the wastage vacancy would not apply.

4. This Court have perused the materials on record. The learned counsel for the parties have been duly heard.

5. There is no dispute that the Petitioner had obtained 40 marks and the last of the General Category candidate had obtained 43 marks. In the backdrop of the above, let this Court take note of the Circulars dated 15.07.2005 and 08.09.2005 of the Director General, CRPF. From a perusal of the said Circulars, the benefit under Clause (o) of the Circular dated 15.07.2005 would only be available provided the candidate is selected in the merit list. In the instant case,

as the Petitioner had obtained marks below the last selected General Category candidate i.e. 40 marks against the last of the General Category candidate obtaining 43 marks, this Court is of the opinion that the Circulars dated 15.07.2005 and 08.09.2005 would not aid in the cause of the Petitioner.

6. Accordingly, this Court finds no merit in the instant writ petition for which the writ petition stands dismissed.

JUDGE

Comparing Assistant