

GAHC010174152023



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

Case No. : WP(C)/4548/2023

ALTAF HUSSAIN BARBHUIYA
S/O- NURUL ISLAM BARBHUIYA,
RESIDENT OF VILL- NARAIN PUR PART-II,
P.O.- CHANDPUR WEST,
P.S. AND DISTRICT- HAILAKANDI,
PIN- 788152, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
ELEMENTARY DEPARTMENT, DISPUR,
GUWAHATI- 781006, KAMRUP(M),
ASSAM.

2:THE SECRETARY TO THE GOVT. OF ASSAM
MEDICAL EDUCATION RESEARCH DEPARTMENT
DISPUR
GUWAHATI 781006

KAMRUP(M)
ASSAM.

3:THE DIRECTOR OF MEDICAL EDUCATION AND RESEARCH
DEPARTMENT
SIXMILE
KHANAPARA
GUWAHATI- 781022

KAMRUP(M)
ASSAM.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

KAMRUP(M)
ASSAM.

5:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
SOCIAL JUSTICE AND EMPOWERMENT DEPARTMENT
DISPUR
GAUHATI -6.

6:THE SECRETARY
STATE LEVEL RECRUITMENT COMMISSION FOR CLASS IV POSTS
ASSAM ADMINISTRATIVE STAFF COLLEGE

JAWAHAR NAGAR
KHANAPARA

GAUHATI-22
KAMRUP(M)
ASSAM.

7:THE PRINCIPAL CUM CHIEF SUPERINTENDENT
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GAUHATI-22
KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. K A MAZUMDER

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 08.09.2023

Heard Mr. K.A. Mazumder, learned counsel for the petitioner and Ms. N. Phukan, learned counsel for the respondents No. 1 and 4, being the authorities

in the Elementary Education Department of the Government of Assam. Also heard Mr. A. Chaliha, learned counsel for the respondents No. 2, 3 and 7, being the being the authorities in the Health Department. None appears for the respondents No. 5 and 6.

2. The petitioner Altaf Hussain Barbhuiya participated in a selection process for Grade-IV post as per the advertisement dated 25.03.2022. In the said selection process, the petitioner offered his candidature under the persons with disabilities quota. As per the order dated 30.05.2023 of the Director of Elementary Education, Assam, the name of the petitioner finds place in the select list. Under the rules, there was a requirement for the petitioner to be placed before a medical board to be constituted by the Health Department to assess his disability. But in the list that was forwarded to the Health Department of the selected candidates for undergoing the medical examination, the name of the petitioner is stated to have not found its place. Accordingly, the petitioner was not subjected to a medical assessment and therefore no appointment had been issued in his favour.

3. In the aforesaid circumstance, this writ petition is instituted.

4. By the order dated 21.08.2023 in WP(C) No. 4548/2023 of this Court, there was a direction to place the petitioner before an appropriate medical board for assessment of his disability. Pursuant thereto, a medical report has been produced before the Court dated 28.08.2023 of the Principal-cum-Chief Superintendent of Gauhati Medical College and Hospital which provides that the locomotor disability of the petitioner was assessed to be 45% due to Limb Girdle Muscular Dystrophy.

5. As the petitioner in the meantime had been subjected to a medical board and his disability had been assessed, we remand the matter back to the Director

of Elementary Education, Assam for taking appropriate decision on the appointment of the petitioner and in doing so, the medical report dated 28.08.2023 be also taken note of.

Writ petition stands disposed of as indicated above.

A copy of the medical report dated 28.08.2023 is kept on record.

JUDGE

Comparing Assistant