

GAHC010182982022



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

Case No. : WP(C)/6237/2022

AMIT BASUMATARI
S/O- JALESWAR BASUMATARI,
R/O- VILLAGE GANESH PATHAR,
P.O- LAHIN TINIALI,
P.S- HOWRAGHAT,
DIST- KARBI ANGLONG, ASSAM, PIN-782441

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER/ PRINCIPAL SECRETARY TO THE
GOVT. OF ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT,
DISPUR, GUWAHATI-781006, DIST-KAMRUP(M), ASSAM

2:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIXMILE
KHANAPARA
GUWAHATI-22

3:THE PRINCIPAL CUM CHIEF SUPERINTENDENT
(EARLIER ASSAM HILLS MEDICAL COLLEGE AND RESEARCH INSTITUTE
AND NOW) DIPHU MEDICAL COLLEGE AND HOSPITAL
DIPHU

DIST- KARBI ANGLONG

4:THE SELECTION COMMITTEE
RELATING TO THE SELECTION OF GRADE -III NON TECHNICAL AND
GRADE -IV POST AT THE ASSAM HILLS MEDICAL COLLEGE AND
RESEARCH INSTITUTE
DIPHU TO BE REP. BY THE PRINCIPAL

DIPHU
MEDICAL COLLEGE AND HOSPITAL
DIPHU

DIST- KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR. B CHAKRAVARTY

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 25-01-2023

Heard Ms. R. Devi, learned counsel for the writ petitioner. I have also heard Ms. S. Sarma, learned standing counsel, Health Department, Assam appearing for the official respondents as well as Ms. S. Baruah, learned Govt. Advocate, Assam appearing for the State.

Aggrieved by non-consideration of his candidature for appointment against the vacant Grade-III post existing in the Diphu Medical College & Hospital in the district of Karbi Anglong, the instant writ petition has been filed. The petitioner has approached this Court for the second time seeking relief. In the earlier round, the writ petition being W.P. (C) No. 598/2020 was disposed of by the order dated 06-12-2021 by providing that the representation submitted by the petitioner, ventilating his grievance in the matter, be considered in accordance with law and dispose of by a speaking order.

Accordingly, by the order dated 27-06-2022 passed by the respondent No. 3, the

representation of the petitioner was disposed of. The operative part of the order is extracted here-in-below for ready reference:-

“Whereas, in pursuant to Hon’ble High Court’s order dated 06.12.2021, the applicant submitted representation on 14.12.2021. On perusal of the same, the issue regarding consideration of the applicant’s candidature has been reviewed. However, it is found that in the Application Form submitted by the applicant, the post of Driver was also entered by him against the column indicating the post applied for. Further, after declaration of the result of the written test, it is found that the applicant secured 33 marks on the basis of which the merit position of the applicant was placed at Sl. No. 59 in the merit list of driver and 6th position in ST(P) Quota (given Annexure-II & Annexure-III). As such, as per the merit position, the applicant was found not eligible to be called for Interview for any post except the post of Driver. Accordingly, he was called for Interview to the said post of Driver.

Whereas, on the schedule date, the Interview Board found the applicant not eligible for the post of Driver due to lack of requisite document Le Driving License for LMV which mandatory for selection to the post of Driver.

Whereas, based on the above observations as well as the review of the available materials on record, the undersigned has rightly rejected the candidature of the applicant for selection to the post of Driver as well as to any other Grade-III (non-technical) posts.

Hence, in view of the above circumstances, the undersigned, i.e. the Principal-cum-Chief Superintendent, Assam Hills Medical College & Research Institute, Diphu has decided not to consider the candidature of the applicant in any other Grade-III (Non-Technical) posts including the post of Driver as per Advertisement dated 02.07.2019 and 29.06.2019 and accordingly, is not able to consider the representation dated 14.12.2021 submitted by the applicant.

A bare reading of the aforesaid observations in the order dated 27-06-2022 goes to show that the candidates with better merit have been considered for appointment against the vacant Grade-III post.

It is the case of the petitioner that he is not interested for the post of Driver but only for the Grade-III post and therefore, it would not be necessary for this Court to go into the question of validity of the observations made by the respondent No. 3 as regards

suitability of the petitioner for appointment to the post of Driver. It transpires from the submission made at the bar that the selected candidates have already been appointed against the vacant Grade-III post and they are rendering their services. However, those candidates are not parties in this writ petition. Moreover, there is nothing on record to indicate that the petitioner had secured higher marks than the successful candidates. Rather, it appears that the selected candidates had scored higher than the petitioner.

Under the circumstances, this Court is of the opinion that there is no scope of judicial review in this matter on the facts available on record. It is, however, made clear that if and when vacant post in Grade-III is advertised, it will be open for the petitioner to participate in the selection process in accordance with law.

With the above observation this writ petition stands disposed of.

JUDGE

GS

Comparing Assistant