

GAHC010192412020



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

Case No. : WP(C)/5/2021

TARIF AHMED
S/O- TAJIMUDDIN AHMED, R/O- DHAIALI WARD NO. 2, P.O. SIVASAGAR,
DIST.- SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
HOME, DISPUR, GHY-06

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY-07

3:THE CHAIRMAN
STATE LEVEL POLICE RECRUITMENT BOARD
ASSAM POLICE HEAD QUARTER
ULUBARI
GHY-07

4:THE SUPERINTENDENT OF POLICE
SIVASAGAR
DIST.- SIVASAGAR
ASSAM
PIN-

5:THE COMMANDANT
1ST APBN
LIGIRIPUKHURI
NAZIRA
DIST.- SIVASAGAR

ASSAM

6:MOINUDDIN AHMED
S/O. JANARUDDIN AHMED
R/O. NAPAM BARUATI GAON
P.O. DEOPANI
DIST. SIVASAGAR
ASSAM
PIN-785684

Advocate for the Petitioner : MR. P K GOGOI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

15.03.2023

Heard Mr. P. K. Gogoi, learned counsel for the petitioner. Also heard Mr. T. C. Chutia, learned Additional Senior Govt. Advocate, Assam appearing for the respondent Nos.1 to 5. None has appeared for the respondent No.6.

The writ petitioner herein had participated in the process for recruitment of AB Constable in the district of Sivasagar which was initiated on the basis of an advertisement notice dated 26.12.2014. The petitioner was called for interview and he had also qualified in the written as well as the physical test. However, when the select list was published in the month of November, 2015, the name of the petitioner did not appear therein. According to the petitioner, although he ought to have been given higher marks than the respondent No.6 based on his credentials, such as certificate of Diploma in Computer Application, no such mark has been given to the petitioner, as a result of which, the respondent No.6 has been shown to have scored higher marks than the writ petitioner.

According to the learned counsel for the petitioner, his client had produced certificate of participation in a one year diploma course in computer application, against which 5 marks ought to have been given. Had he been awarded those five marks, he would have scored higher marks than the respondent No.6 and consequently, would have been selected and appointed as an AB Constable.

The departmental authorities have filed affidavit-in-opposition rejecting the claim of the petitioner by contending that the marks awarded to the petitioner were based on the credentials furnished by him and as per the guidelines. Therefore, there is no anomaly in the selection process.

The respondent No.3 has specifically averred in the affidavit dated 22.03.2021 that the respondent No.6 had scored higher marks i.e. 60.50 marks as compared to 57.50 marks scored by the writ petitioner. Notwithstanding the same, taking note of the specific plea raised by Mr. Gogoi to the effect that the one year "Diploma in Computer Application" certificate submitted by his client was not properly accounted for by the selection committee, this Court had directed the learned Government Advocate, Assam to obtain instruction in the matter.

Today when the matter is called up, Mr. Chutia, learned Addl. Sr. Govt. Advocate, Assam has placed a copy of the written instruction dated 13.03.2023 annexing the copy of the certificate submitted by the petitioner, a perusal of which goes to show that the petitioner had submitted a computer certificate along with his application which was for a duration of only two months. Since, as per the guidelines, the minimum duration for the certificate course in computer application had to be 12 weeks or three months so as to attract

marks, no mark was awarded to the petitioner on account of such a certificate. After perusal of the guidelines applicable in this case, I find force in the submission of Mr. Chutia that the petitioner was not entitled to any mark on the certificate of Computer Application Course submitted by him since the duration of the programme was for two months.

Contesting the above stand of the departmental counsel, Mr. Gogoi has, however, argued that the Diploma Certificate produced by his client was for a period of one year. The learned counsel submits that such certificate has been annexed to the affidavit-in-reply filed by the petitioner on 27.04.2021. However, the respondent authorities have denied receipt of any such a certificate from the petitioner along with his application. What would be significant to note herein is that, there is no mention of the said "one year" certificate in the writ petition instituted by the petitioner. According to Mr. Chutia, there is no other certificate pertaining to the petitioner save and except the one submitted by him which relates to the period of "two months" only.

Having regard to the peculiar facts and circumstances of the case as well as the materials available on record, I find that the authorities have admitted that the petitioner had submitted a certificate of computer course but since the same was for a period less than three months, no mark was awarded to the petitioner on such certificate. The aforesaid process cannot be found fault with since the guidelines itself had laid down that award of marks on Computer Application Course certificate would be permissible only if the duration of the course is for more than 12 weeks.

In so far as the plea of the petitioner's counsel regarding the second certificate i.e. Diploma in Computer Course covering a period of one year is

concerned, as noted above, the department has denied receipt of such a certificate and the petitioner has also not made any such projection in the writ petition. Therefore, the above plea of the petitioner raises a disputed question of fact which cannot be adjudicated in this writ petition. If that be so, I do not find any justifiable ground to allow the prayer made in the writ petition. The writ petition is therefore, held to be devoid of merit and is accordingly closed.

A copy of the written instruction dated 13.03.2023 be retained in the record of this case.

JUDGE

Comparing Assistant