

GAHC010230712022



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

Case No. : WP(C)/7230/2022

PARAG MEDHI
S/O. LT. RATAN MEDHI, VILL. DUMURIA, P.O. BHOUKAMARI, DIST.
BAJALI, ASSAM, PIN-781325.

VERSUS

UNION OF INDIA AND 3 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI-1100101.

2:UNION OF INDIA

REP. BY ITS SECRETARY
MINISTRY OF PERSONNEL PENSION AND PUBLIC GRIEVANCE
DEPTT. OF PERSONNEL AND TRAINING
NORTH BLOCK
NEW DELHI-110001.

3:STAFF SELECTION COMMISSION

REP. BY THE CHAIRMAN
LODHI ROAD
BLOCK NO. 12
CGO COMPLEX
NEW DELHI-110003.

4:REGIONAL DIRECTOR (NER)

STAFF SELECTION COMMISSION
HOUSEFED COMPLEX
LAST GATE BASISTHA ROAD
PO. ASSAM SACHIVALAYA

DISPUR
GUWAHATI
781006

Advocate for the Petitioner : MR. R SARMA

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

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 09.01.2023

Heard Mr.R. Sharma, the learned counsel appearing on behalf of the petitioner and Ms. B. Sarma, the learned C.G.C. appearing on behalf of the respondents.

2. The petitioner herein had participated in the selection process for the post of Constable (GD) in the CAPFS pursuant to an employment notice dated 21/7/2018. The petitioner herein belong to the reserved category for which the petitioner is entitled to relaxation in the required height and size of chest. By availing such relaxation as regards height and chest, the petitioner entered the selection process as reserved category candidate. However, in the selection process, as per merit list, the petitioner was above in the merit to the last selected General candidates and as such he claimed that he should be selected and appointed as General candidate.

3. From the materials on record, it transpires that the writ petitioner has secured higher position than the last selected candidates in the General candidate and that he has not availed any benefit of age relaxation.

Though the petitioner secured more marks than some of the selected candidates, he has not been selected and appointed.

4. Ms. B. Sarma, the learned CGC appearing on behalf of the respondents have submitted that the petitioner secured marks above the last of the General category candidates, who have been selected.

5. It is well settled principle of law that if a reserved category candidates secures more marks than the last selected General category candidates, his/her candidature is to be considered as a General candidate for merit purpose.

6. Applying the said law, this Court is therefore of the opinion that the petitioner i.e. Sri Parag Medhi, who as per the learned counsel appearing on behalf of the respondents has secured more than the last selected General category candidates is entitled to be selected and appointed as Constable(GD) as General category candidates.

7. At this stage, this Court would also like to take note of the submission made by the learned counsel for the respondents, who stated upon instructions, that though the post which were advertised had been filled up already but taking into account various similar orders being passed by this Court as well as the Delhi High Court in similar circumstances, the respondent authorities have granted appointment to those reserved category candidates who have secured more marks than the last selected general category candidates.

8. In view of the above, therefore, this Court directs the respondent authorities to apply the same yardsticks and pass appropriate appointment

orders in favour of the petitioner i.e. the name of whom has been referred to hereinabove.

9. The said exercise be carried out at the earliest by the respondent authorities.

7. Accordingly, the instant petition stands disposed off in terms with the above observations and directions.

JUDGE

Comparing Assistant