

GAHC010194072023



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

Case No. : WP(C)/5212/2023

JINTU MANI TALUKDAR
S/O SRI BIMAL TALUKDAR, R/O VILL AND P.O.-HARIBHANGA, P.S.-TIHU,
DIST- NALBARI, ASSAM, PIN-781378

VERSUS

THE UNION OF INDIA AND 8 ORS.
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, NEW DELHI-110001

2:THE STAFF SELECTION COMMISSION
REPRESENTED BY THE CHAIRMAN
BLOCK NO 12
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

3:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
GUWAHATI
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY0781006

4:THE DIRECTOR GENERAL
BORDER SECURITY FORCE
BLOCK NO. 10
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

5:THE DIRECTOR GENERAL
SASHASTRA SEEMA BAL

5-6
VIVEKANANDA MARG
EAST BLOCK
R.K. PURAM
NEW DELHI-110002

6:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE (RECRUITMENT)
EAST BLOCK-07
LEVEL-4
SECTOR-01
R.K. PURAM
NEW DELHI-66

7:THE DIRECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
BLOCK NO. 13
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

8:THE DIRECTOR GENERAL
INDO TIBETAN BORDER POLICE FORCE
BLOCK NO. 10
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003

9:THE DIRECTOR GENERAL
ASSAM RIFLES
NONGRIMAW LAITUMUKHRAH
GORALINE
SHILLONG
MEGHALAYA-79301

Advocate for the Petitioner : MR. S D ROY

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

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 01-02-2024

1. Heard Mr. S.D. Roy, learned counsel for the writ petitioner and Ms. S Baruah, learned counsel for the respondents.
2. The petitioners herein belong to SC category. The petitioner had applied under the reserved category in response to the advertisement notice dated 21/07/2018 for recruitment in the post of Constable (General Duty) in the Central Armed Police Forces (CAPFs), the petitioner had submitted his candidature and had also participated in the selection process. However, on conclusion of the process, the petitioner was not selected despite having scored more marks than the unreserved candidates and no appointment order was issued to the petitioner.
3. Similarly situated petitioners had earlier approached this Court by filing WP(C) 3764/2021 raising a similar grievance. After taking note of the facts of the case as well as the law laid down by the Delhi High Court in ***Hemant Pokhriyal Vs. Staff Selection Commission & Ors.*** [WP(C) 4982/2021 decided on 01/10/2021] and also the decision rendered in the case of ***Arpan Chowdhury Vs. Union of India and others*** rendered by the Tripura High Court in connection with WP(C) 117/2021, the learned Single Judge was of the opinion that the petitioners were entitled to be appointed. Accordingly, the writ petition was disposed of with a direction to the respondents to accommodate those petitioners in any of the CAPFs, within a period

of three months from the date of receipt of certified copy of the order.

4. By referring to the order dated 11/08/2022 passed by the learned Single Judge in WP(C) 3764/2021, Mr. Roy submits that the issues raised in this writ petition will be covered by the order passed in W.P.(C) No. 3764/2021 and, therefore, he submits that this writ petition be disposed of with a similar direction.

5. Ms. S Baruah, learned counsel for the respondents, on instructions submits that the petitioner's case would be covered by the previous decision of this Court but since in the meantime, all the vacant posts of Constable (GD) in the CAPFs coming under the advertisement notice dated 21/07/2018 have already been filled up, the petitioner may be accommodated in any other division of Armed Police Force.

6. Mr. S.D. Roy, learned counsel for the petitioner submits that the petitioner will have no objections if such recourse is taken so long as he is issued the order of appointment without further delay.

7. After perusal of the order dated 11.08.2022 passed by this Court in W.P.(C) No. 3764/2021 and also the Judgment of the Division Bench of Delhi High Court in W.P(C) No. 4982/2021 (***Hemant Pokhriyal Vs. Staff Selection Commission & Ors***) as well as Judgment dated 07.12.2021 passed by the Tripura High Court in W.P(C) No. 117/2021 (***Arpan Chowdhury Vs. Union of India & Ors***) and also taking note of the submissions advanced by the learned counsels for the parties, this Court finds that the matter is covered. Accordingly, this Court is of the view that the respondents cannot disentitle the petitioner for consideration against general category

vacancies if he had secured more marks than the last selected general category candidates.

8. In view of the reasons stated above, the respondents are directed to accommodate the petitioner and appoint him in vacant posts of Constable (GD) in any Central Armed Police Force within a period of three (3) months from the date of receipt of a certified copy of this order, after verifying whether the petitioner has secured higher marks than the last selected general category candidates.

9. With the above observations, the writ petition stands disposed of

JUDGE

Comparing Assistant