

GAHC010225162023



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

Case No. : WP(C)/5984/2023

SANJIB BHARTI AND 16 ORS.
SANJIB BHARTI (AGE-26 YRS),
S/O. GANESH BHARTI,
VILL- NO. 1 PAHARPUR,
P.O. PAHARPUR, P.S. TAMULPUR,
DIST. BAKSA (TAMULPUR) (ASSAM),
PIN NO. 781360.
ROLL NO. 5105124905.

2: MON PRASAD DHAKAL
(AGE-21YRS
S/O. HEMLAL DHAKAL

VILL. GANESHPUR
NAGRIJULI

P.O. NAGRIJULI
P.S. TAMULPUR

DIST. BAKSA (ASSAM)

PIN NO. 781368.
ROLL NO. 5105008781

3: ANUPAM KARMAKAR
AGE-23 YRS
S/O. NIKHIL KARMAKAR

VILL. POCHAGARH

P.O. FAKIRAGRAM

P.S. FAKIRAGRAM

DIST. KOKRAJHAR (ASSAM)

PIN NO. 783345.

ROLL NO. 5105056800

4: DEBA PRASAD CHOUDHURY

AGE23

S/O. TOLEN CHOUDHURY

VILL. SAWNAGAON

P.O. MULAGAON

P.S. BONGAIGAON

DIST. BONGAIGAON (ASSAM)

PIN NO. 783380.

ROLL NO. 5105082454.

5: RUBUL DAS

(AGE-29 YRS)

S/O. CHITTARANJAN DAS

VILL. MEDHIPARA

SORBHOG TOWN

WARD NO. 3

P.O. AND P.S. SORBHOG

DIST. BARPETA (ASSAM)

PIN NO. 781317.

ROLL NO. 5105064109.

6: KUKIL NATH

(AGE-23 YRS)

S/O. SOMBAR NATH

VILL. BORGHAT

P.O. ALIKUCHI

P.S. RAHA

DIST. NAGAON (ASSAM)

PIN NO. 782103.

ROLL NO. 5105084053

7: SUNIL SAHU
(AGE-21 YRS)

S/O. BIJOY SAHU

VILL. MOLESH BASTI

P.O. SILPUTA TINIALI

P.S. BAKALIA

DIST. KARBI ANGLONG (ASSAM)

PIN NO. 782482.

ROLL NO. 5105098535.

8: BINOY DAS
(AGE-22 YRS)

S/O. RAMESH DAS

VILL. AND P.O. KARIA

P.S. NALBARI

DIST. NALBARI (ASSAM)

PIN NO. 781339.

ROLL NO. 5105011635.

9: BRENDON BORUAH
(AGE-22 YRS
S/O. MOINA GOGOI

VILL. PONKIAL GAON

P.O. DOIGRUNG

P.S. GOLAGHAT

DIST. GOLAGHAT (ASSAM)

PIN NO. 785702.

ROLL NO. 5107017862.

10: DEBAJIT DUTTA
(AGE-22 YRS)

S/O. MIREN DUTTA

VILL. GARAKUSH GAON

P.O. PHULPANI CHIGA

P.S. GAURISAGAR

DIST. SIVASAGAR (ASSAM)

PIN NO. 785683.
ROLL NO. 5107017965.

11: PRASENJIT DAS
(AGE-23 YRS)

S/O. PRABODH DAS

VILL. DHEKIAJULI TOWN WARD NO. 5

P.O. DHEKIAJULI

P.S. DHEKIAJULI

DIST. SONITPUR (ASSAM)

PIN NO. 784110.
ROLL NO. 5105066496

12: MUKUNDA BARO
(AGE-24 YRS)

S/O. BHUBAN BARO

VILL. CHENIALPARA

P.O. MUDAIBARI

P.S. KALAIGAON

DIST. UDALGURI (ASSAM)

PIN NO. 784146.

ROLL NO. 5105031848.

13: LABEN RABHA
(AGE-25 YRS)

S/O. SAJAN RABHA

VILL. CHABUKDHARA

P.O. RANGAJULI

P.S. KHOIRABARI

DIST. UDALGURI (ASSAM)

PIN NO. 784522.
ROLL NO. 5105006155

14: SIMANTA PATGIRI
(AGE-24 YRS)
S/O. JATIN PATGIRI

VILL. DALOIGAON
(BAMAKHATA)

P.O. BAMAKHATA

P.S. PATACHARKUCHI

DIST. BARPETA (BAJALI) (ASSAM)

PIN NO. 781325.
ROLL NO. 5105010466

15: RAJIBUL HOQUE
(AGE-23 YRS)

S/O. ANOWAR HUSSAIN KHAN

VILL. BARBALA

P.O. BARBALA
P.S. HOWLY

DIST. BARPETA (ASSAM)

PIN NO. 781316.
ROLL NO. 5105111474

16: AFSANA BEGUM BARBHUIYA
(AGE-24 YRS)

D/O. FULEJAR ALI BARBHUIYA

VILL. KANAKPUR PT. III

P.O. KANAKPUR EAST

P.S. JOYPUR

DIST. CACHAR (ASSAM)

PIN NO. 788107.

ROLL NO. 5111016093

17: ANAMIKA NEOG
(AGE-22 YRS)

D/O. KESHAB NEOG

VILL. TEKELA GAON

P.O. TEKELABARI

P.S. PULIBOR

DIST. JORHAT (ASSAM)

PIN NO. 785616.

ROLL NO. 510701221

VERSUS

THE UNION OF INDIA AND 8 ORS.

REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, NEW DELHI, 1.

2:THE STAFF SELECTION COMMISSION

REPRESENTED BY THE CHAIRMAN
BLOCK NO. 12 CGO COMPLEX LODHI ROAD
NEW DELHI
03.

3:THE REGIONAL DIRECTOR

STAFF SELECTION COMMISSION
GUWAHATI
ASSAM
HOUSE FED COMPLEX
DISPUR
GHY - 6.

4:THE DIRECTOR GENERAL

BORDER SECURITY FORCE
BLOCK NO. 10 CGO COMPLEX LODHI ROAD
NEW DELHI
03.

5:THE DIRECTOR GENERAL

SASHATRA SEEMA BALL
5-6
VIVEKANANDA MARG
EAST BLOCK
R.K. PURAM
NEW DELHI
22.

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

INDO TIBETAN BORDER POLICE
BLOCK NO. IV
CGO COMPLEX LODHI ROAD
NEW DELHI
03.

8:THE DIRECTOR GENERAL

CENTRAL INDUSTRIAL SECURITY FORCE
BLOCK NO. 13 CGO COMPLEX LODHI ROAD
NEW DELHI
03.

9:THE DIRECTOR

CENTRAL FORENSIC SCIENCE LABORATORY
LODHI ROAD
BLOCK - 4
CGO COMPLEX
NEW DELHI
110003

Advocate for the Petitioner : MD H R AHMED

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

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 01-02-2024

1. Heard Mr. R Mazumder learned counsel for the petitioners.
2. The present petitioners participated in a selection process for recruitment of post of Constable GD in Central Armed Force (CAFs). Such selection was conducted by the Staff Selection Commission (SSC). Pursuant to the selection process, three lists were published. The first list consists of 4988 female candidates who were provisionally recommended for appointment. The second list consists of 40229 male candidates who were also provisionally recommended for appointment and in the third list total number of 1337 numbers of candidates were enlisted and their names have been withheld.
3. It is the specific stand of the petitioners that they have been intimated by the employer that their results have been withheld only for the reason that their biometrics taken at different stages of

selection are not matching and therefore such biometrics have been sent for forensic examination. Accordingly, the present petition is filed with a limited prayer that until the correctness of such biometrics are determined, a direction may be issued to the respondents to appoint the petitioners' subject to the condition that in the event it is found that their biometrics are not matching, they will be liable to be terminated and the payment already made is liable for recovery.

4. In this connection Mr. Mazumder learned counsel for the petitioners relies on a decision of the Kerela High Court dated 06.12.2021 rendered in ***Uday Kr. K Vs. Union of India*** passed in ***WP(C) 12732/2021***.

5. The relevant portion of the decision in Uday Kr. K Vs. Union of India (supra) is quoted herein below:

2. The apprehension of the petitioners is that, after having successfully come out through all the stages of tests, their appointment is delayed due to the issue relating to the biometric system. According to the petitioners, the respondents have even collected sufficient materials for further cross verification. According to the learned Counsel for the petitioners, the persons, who got selected along with the petitioners regarding whose biometrics there were no issues, have already commenced training and have undergone substantial part of it. It seems that almost every possible steps have been taken to ensure and confirm the identity of the candidates. It is true that the respondents need a confirmation in the biometric process also. However, that alone cannot stand in the way of the petitioners losing their chance.

3. The learned CGC opposing the application contended that, the FSL report is still awaited and the respondents have to wait till the Forensic Reports are announced. The learned CGC further contended that the petitioners if selected, are ultimately expected to carry out the internal operations and even at the border sensitive areas. Hence, the appointing authority cannot take the chance of any error in identification, will be too risky for the establishment.

4. In the above circumstances, there will be a direction to respondents to expedite the Forensic Examination and to address the laboratory to send the Forensic Reports at the earliest. Pending the above, respondents shall forthwith initiate process for issuing appointment orders to each of the petitioners finally selected. The petitioners shall produce individual notarised affidavits wherein, each shall confirm his / her identity and affix the signature and thumb impression, with reference to their approved records like Aadhar Card or Passport or Driving License. They shall affirm that in case of any impersonation leading to their removal from the Forces, they will accept it and return all the monetary or other benefits which they have received, unconditionally. They shall report at the time and place as directed in the call letter. Respondents shall cross check all requisite documents. After satisfactory confirmation, they shall be appointed provisionally, subject to FSL Report. The entire process shall be completed by the respondents at the earliest.

6. This court concurs with the said decision and accordingly an instructions was sought from the learned counsel representing the Union, whether the petitioners' result are also withheld only for the reason of non matching of biometrics of the petitioners' and whether the case of the petitioners' are similar to Uday Kr. K (supra).

7. On instructions Ms. S.G. Baruah learned CGC submits that she has received instructions that though a review has been preferred against the judgment in Uday Kr. K (supra), however, the petitioners in Uday Kr. K (supra) has already been issued appointment order after getting verification of their signature, handwriting and LTI from CFSL/FSL, CPF/fingerprint bureau. Ms. Baruah further submits that the case of the petitioners' are also covered by the judgment of Uday Kr. K (supra).

8. As this court concurs with the determination made in the Uday Kr. K (supra) and that being the position, there should not be

any reason not to apply similar yardstick in case of the present petitioners also. Accordingly, the present writ petition stands allowed by issuing a similar direction that has already been passed in the case of Uday Kr. K (supra) in para No.4 which is quoted herein above.

9. While parting with the record it is provided that if subsequently for any action of the respondent, the petitioners' are aggrieved, they shall always be at liberty to approach the appropriate forum.

10. With the aforesaid, the writ petition stands disposed of.

JUDGE

Comparing Assistant