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

Case No. : WP(C)/6403/2024

HEMEN BORAH
S/O POBITRA BORAH, VILL- DIHUR PHONGLO, P.O. AND P.S.-MAIBONG,
DIST- DIMA HASAO

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-781005

2:THE DIRECTOR GENERAL OF POLICE
POLICE HEADQUARTERS
ASSAM
ULUBARI
GUWAHATI-781007

3:THE DIRECTOR GENERAL OF CIVIL DEFENCE (D.G.C.D.) AND
COMMANDANT GENERAL OF HOME GUARDS (C.G.H.G.)
ASSAM
BELTOLA
GUWAHATI-781028

4:THE STATE LEVEL POLICE RECRUITMENT BOARD ASSAM
REPRESENTED BY THE CHAIRMAN
ASSAM
REHABARI
GUWAHATI-781008

5:THE SUPERINTENDENT OF POLICE
DIMA HASAO
PIN-788819
ASSAM

6:THE COMMANDANT OF APBN
DIMA HASAO
PIN-788819
ASSA

Advocate for the Petitioner : MR B P BORAH, MR. A KHANDAKAR,MR J. B. CHOUDHURY,MISS. J GOGOI,MR P J DUTTA

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

04.12.2024

Heard Mr. B.P. Borah, learned counsel for the petitioner and Mr. D. Bora, learned Govt. Advocate appearing for the respondents. Having regard to the projection made by the petitioner, the writ petition is taken up for disposal at the motion stage itself.

[2.] It is the case of the petitioner that he is a Home Guard personnel and his services has been utilized as Special Police Officer (SPO). An Advertisement was issued on 13.12.2017 for recruitment of Constable from SPOs against the sanctioned post of ASIF Battalion under the Director General of Civil Defence and Commandant General of Home Guards, Assam. The petitioner contends that as per Clause – C of the said Advertisement for one (1) year experience, the applicant concerned will earn 1 mark for each qualifying year of service and for experience

as SPO, the applicant concerned can earn 2 marks for each qualifying one (1) year and not exceeding 10 years. The petitioner contends that although he participated in the selection process, the marks to be allotted as stipulated in Clause – C of the Advertisement has not been given to him. It is his case that he has scored 50 marks and the cutoff marks was 51 and therefore, if he had been given marks as contemplated in Clause – C of the Advertisement, he surely would have been selected.

[3.] Mr. B.P. Borah, learned counsel draws the attention of this Court to a number of writ petitions, which has been considered and disposed of by this Court on the subject matter and one (1) such being the Order dated 10.05.2024 passed in WP(C) No. 3734/2022 (*Bikash Bania & 5 Ors. -Vs- State of Assam & 2 Ors.*). He submits that in that case, it was directed that the respondent authorities concerned should reconsider the case of the petitioners by allotting 2 marks for such Certificate wherein the period of service either as Home Guards or SPOs has not been specified and that if the petitioners are found within the zone of consideration and has secured more more than the cutoff marks than the last appointed candidate, the benefit of the appointment should be given to them. He therefore submits that a similar observation and direction may also be passed in the instant case.

[4.] Considering the fact that the said Order had been passed as recent as on

10.05.2024, this Court is of the considered view that the petitioner should also be given a similar benefit. The writ petition is therefore disposed of with a direction to the respondent authority concerned to consider allotting the marks to the petitioner as stipulated in Clause – C of the Advertisement in terms of the Experience Certificate that that he has already produced by allotting him the stipulated marks, if the same otherwise had not already been allotted during the selection process. In other words, the direction is made for re-verification about the marks allotted to the petitioner and as to whether the same is in terms of Clause – C of the Advertisement dated 13.12.2017. In the event, it is found that the petitioner has not been allotted the marks that is entitled to him, the same shall be given to him and if he is found to he have secured more than the last appointed candidate , the benefit of appointment should be given to him.

[5.] With the above observation and direction, the writ petition stands disposed of. The above direction is however subject to there being vacancy available to accommodate the petitioner.

JUDGE

Comparing Assistant