

GAHC010284922023



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

Case No. : WP(C)/7588/2023

BIKASH CHANDRA RAY AND 2 ORS
S/O- HARISH CHANDRA RAY,
R/O- VILLAGE KASHIDOBBA,
P.O- CHIPON CHILA,
P.S- BONGAIGAON, DIST- BONGAIGAON, ASSAM, PIN-783380

2: MANABJYOTI MEDHI
S/O- DIMBESWAR MEDHI

R/O- VILLAGE GHANDAL
BONGAIGAON

P.S- BONGAIGAON
DIST- BONGAIGAON
ASSAM
PIN-783380

3: UTPAL RAY
S/O- SURABENDRA RAY

R/O- VILLAGE DAKUAPARA

P.O- CHAKAPARA

P.S- BONGAIGAON
DIST- BONGAIGAON
ASSAM
PIN-78338

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME

AFFAIRS, GOVT. OF INDIA , NEW DELHI 01

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

3:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI 06

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

5:THE DIRECTOR GENERAL
SASHATRA SEEMA BALL
5-6
VIVEKANANDA MARG
EAST BLOCK
R.K PURA
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
CENTRAL INDUSTRIAL SECURITY FORCE
BLOCK 13
CGO COMPLEX
LODHI ROAD
NEW DELHI 0

For the Petitioner(s) : Mr. U. Saikia, Advocate

For the Respondent(s) : Mrs. A. Gayan, CGC

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 05.01.2024

1. The case in brief is that the petitioners had taken part in the selection process for recruitment to the post of Constable (GD) in the Central Armed Police Forces in pursuant to the Advertisement dated 21.07.2018. Though the petitioners were reserved category candidates, they had secured more marks than some of the selected general category candidates in the selection process. However, appointment orders were not issued to the petitioners, on the ground that they had availed of the chest and height relaxation prescribed for all candidates for the State of Assam. As such, the stand of the respondents was that the petitioners could have been considered only for the reserved category posts and not for the general category posts.

2. The petitioners counsel has relied upon the Judgment & Order dated 07.06.2022 passed in WP(C) No. 1684/2021 in the case of ***Dibyajyoti Pathori & Anr. Vs. Union of India & 8 Others*** wherein, this Court has held that the relaxation in qualifying standard availed by the reserved category candidates shall not disentitle them for consideration against general category posts, if they have secured more marks than the general category candidates. He has also relied upon the judgment of the Division Bench of this Delhi High Court in the case of ***Hemant Pokhriyal Vs. Staff Selection Commission & Others*** in WP(C) No. 4982/2021 decided on 01.10.2021, which has been implemented by the State respondents and the Judgment dated 07.12.2021 passed by the Tripura High Court in WP(C) No. 117/2021 etc. in the case of ***Arpan Chowdhury Vs. Union of India & Others***, which are to the same effect as the judgment & order dated

07.06.2022 passed in WP(C) No. 1684/2021.

3. The learned counsel for the petitioner submits that as the present case is a covered case, the petitioners who have secured more marks than the last selected general category candidate, should be given appointment orders.

4. Mrs. A. Gayan, learned CGC fairly submitted that the present case is a covered case and that the petitioners can be appointed against general category posts, provided their marks are higher than the last selected general category candidate.

5. On considering the submissions made by the counsels for the parties, and on perusing the judgments relied upon by the learned counsel for the petitioners, this Court finds that the present case is a covered case. Accordingly, this Court is of the view that the relaxation in height and chest availed by the petitioners, cannot disentitle them for consideration against general category vacancies, if they have secured more marks than the last selected general category candidates.

6. In view of the reasons stated above, this Court directs the Respondents to accommodate the Petitioners as and when vacancies arises to the post of Constable (GD) in any Central Armed Police Force and preferably within a period of 6 (six) months from the date of receipt of a certified copy of this order, after verifying whether the petitioners have secured higher marks than the last selected general category candidates.

7. The writ petition is accordingly allowed.

JUDGE

Comparing Assistant