GAHC010060402026

2026:GAU-AS:13137

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

Case No. : WP(C)/1759/2026

PARASH NEWAR
S/O- BIREN NEWAR,
R/O- GOWALPUR ,
P.O- GAMIRIPAL,
P.S- JAMUGURIHAT, DIST- SONITPUR, ASSAM,PIN-784180

VERSUS

THE UNION OF INDIA AND ORS
REP. BY THE SECRETARY , MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI-01

2:THE DIRECTOR GENERAL
CRPF
BLOCK NO-1
CGO COMPLEX
LODHI ROAD
NEW DELHI-03

3:THE DEPUTY INSPECTOR GENERAL OF POLICE
GROUP CENTRE
CRPF
KHATKHATI
KARBI ANGLONG
ASSAM

4:THE COMMANDANT
GROUP CENTRE
CRPF
KHATKHATI
KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR. D DOLEY, MD H R AHMED,MS A DEKA

Advocate for the Respondent : DY.S.G.I., MRS. A GAYAN(C.G.C.)

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 09.09.2026

Heard Mr. H. R. Ahmed, learned counsel for the petitioner. Also heard Ms. A. Gayan, learned Central Government Counsel, for all the respondents.

2. By filing this writ petition, the petitioner has assailed the impugned order dated 09.03.2026, issued by the Commandant, Group Centre, CRPF, Khatkhati, Karbi Anglong, Assam, whereby his appointment to the post of Constable (General Duty) in the Central Reserve Police Force, pursuant to the recruitment process conducted by the Staff Selection Commission, came to be cancelled. The petitioner has also prayed for a direction upon the respondent authorities to allow him to continue in service with all consequential benefits.

3. The case, in brief, is that pursuant to the advertisement dated 05.09.2024, issued by the Staff Selection Commission for recruitment to the post of Constable (GD) in the Central Armed Police Forces (CAPFs), Rifleman (GD) in Assam Rifles and Sepoy in the Narcotics Control Bureau Examination, 2025, the petitioner submitted his application under the Other Backward Classes (OBC) category. The petitioner belongs to the Newar community and claims to have been issued an OBC certificate by the competent authority of the Government of Assam, along with a Non-Creamy Layer certificate.

4. The petitioner participated in the selection process and successfully cleared the various stages thereof, including the Computer Based Examination, Physical Standard Test, Physical Efficiency Test, Detailed Medical Examination and Document Verification. It is the case of the petitioner that he secured 93.2% marks in the selection process, whereas the cut-off marks for the OBC category in respect of Naxal District were 71.01% and those for the Unreserved category were 78.73%.

5. Consequent upon his selection, an appointment letter dated 24.01.2026 was issued in favour of the petitioner by the Commandant, Group Centre, CRPF, Khatkhati, Karbi Anglong, Assam, appointing him as Constable (General Duty). Pursuant thereto, the petitioner reported for duty and joined the service on 23.02.2026. However, by the impugned order dated 09.03.2026, the petitioner's appointment came to be cancelled on the ground that his community, namely, Newar (Nepali), is not included in the Central List of Other Backward Classes for the State of Assam.

6. The petitioner has challenged the aforesaid action mainly on the ground that although he had initially applied under the OBC category on the basis of the OBC certificate issued by the competent State authority, he had secured marks substantially higher than even the cut-off mark prescribed for candidates belonging to the Unreserved category. Therefore, the petitioner was entitled to be considered and appointed against an Unreserved vacancy on the strength of his own merit and without deriving any benefit from reservation.

7. It is contended that the OBC certificate produced by the petitioner was genuine and had been issued by the competent authority of the State Government and there is no allegation that the petitioner had produced any false or fabricated certificate or had committed any fraud or misrepresentation.

According to the petitioner, once he had secured marks higher than the prescribed cut-off mark for the Unreserved category, the subsequent finding that his community does not find place in the Central OBC List could not have rendered his appointment invalid, particularly when his appointment was otherwise secured on the basis of his own merit.

8. Mr. H. R. Ahmed, learned counsel for the petitioner, submits that the issue raised in the present writ petition is squarely covered by the judgment and order dated 21.07.2026, passed by a co-ordinate Bench of this Court in **WP(C) No. 1750/2026 (Ramesh Sinha & Ors. Vs. The Union of India & Ors.)**, wherein, in similar circumstances, the cancellation of appointments of candidates, who had initially applied under the OBC category but were ultimately selected against Unreserved vacancies on the basis of their own merit, was set aside.

9. Learned counsel for the petitioner submits that in the present case also, the petitioner had secured 93.2% marks, which is considerably higher than the cut-off marks of 78.73% prescribed for the Unreserved category in respect of Naxal District. Therefore, the petitioner's initial declaration of OBC status could have no bearing upon the validity of his appointment once he had otherwise qualified for selection against an Unreserved vacancy on his own merit.

10. Learned counsel further submits that the petitioner had neither obtained nor sought to obtain any undue advantage on account of his OBC status and the cancellation of his appointment solely on the ground that the Newar community is not included in the Central OBC List for the State of Assam is arbitrary, unreasonable and unsustainable in law. Therefore, he submits that the impugned order dated 09.03.2026 is liable to be set aside and the petitioner may be allowed to continue in service with all consequential benefits.

11. Ms. A. Gayan, learned Central Government Counsel, appearing for all the respondents, fairly submits that the facts and circumstances of the present case are substantially similar to the case considered by the co-ordinate Bench in case of **Ramesh Sinha** (supra). She submits that in view of the said decision, the petitioner herein, having initially applied under the OBC category but having secured marks higher than the prescribed cut-off mark for the Unreserved category, is similarly situated to the petitioners in the said writ petition. Therefore, she fairly submits that the petitioner may also be extended similar relief in terms of the order passed in **Ramesh Sinha** (supra).

12. I have considered the submissions advanced by the learned counsel for the parties and have also perused the materials available on record.

13. From the materials placed on record, it appears that the petitioner had initially applied for the post of Constable (General Duty) under the Other Backward Classes (OBC) category. The petitioner belongs to the Newar (Nepali) community and had produced the requisite OBC and Non-Creamy Layer certificates issued by the competent authority of the State of Assam. Thereafter, the petitioner participated in the selection process and was ultimately selected and appointed as Constable (General Duty) pursuant to the appointment order dated 24.01.2026. He joined service on 23.02.2026.

14. It is not in dispute that the petitioner secured 93.2% marks, which is substantially higher than the cut-off mark prescribed for the Unreserved (UR) category, stated to be 78.73% for the relevant recruitment in respect of candidates from Naxal Districts. Thus, the petitioner had secured marks sufficient to qualify for selection against an Unreserved vacancy on the strength of his own merit.

15. The appointment of the petitioner was, however, cancelled by the impugned order dated 09.03.2026 on the ground that the Newar (Nepali) community is not included in the Central List of Other Backward Classes for the State of Assam. The learned Central Government Counsel appearing for the respondents, fairly taking into consideration the order passed by the co-ordinate Bench of this Court in **Ramesh Sinha** (supra), has submitted that the petitioner is similarly situated and the said decision would govern the present case as well.

16. In the case of **Ramesh Sinha** (supra), the co-ordinate Bench, upon consideration of an identical issue, held that where candidates had initially applied under the OBC category but were ultimately selected against Unreserved vacancies on the strength of their own merit, the subsequent question as to whether the community to which they belonged was included in the Central List of OBCs had no bearing upon their selection and appointment. The cancellation of their appointments solely on that ground was, accordingly, held to be arbitrary and unsustainable in law.

17. In the case of **Jitendra Kumar Singh & Anr. Vs. State of U.P. & Ors.**, reported in **(2010) 3 SCC 119**, the Hon'ble Supreme Court has held that concession such as relaxation in age etc. merely enable reserved category candidates to enter the zone of consideration and do not disturb the level playing field once the candidates enter the stage of open competition. In the present case, although the petitioner belongs to OBC category, his selection is based on the performance which is on its own merit.

18. The aforesaid principle squarely applies to the facts of the present case. Once the petitioner had secured marks substantially above the cut-off mark prescribed for the Unreserved category and was otherwise found eligible

through the various stages of the recruitment process, his initial declaration of OBC status could not furnish a valid ground for cancelling his appointment, particularly when his selection could stand on the strength of his own merit without availing the benefit of reservation.

19. The mere fact that the petitioner had initially applied under the OBC category cannot, in the facts and circumstances of the present case, result in forfeiture of an otherwise meritorious selection against an Unreserved vacancy. The eligibility of the petitioner for appointment against the Unreserved category has to be considered independently of his claim to belong to the OBC category. Once the petitioner had secured sufficient marks to qualify against the Unreserved category, the question as to whether the Newar (Nepali) community finds place in the Central List of OBCs becomes inconsequential to his entitlement to the appointment.

20. In view of the aforesaid discussions and also having regard to the decision rendered by the co-ordinate Bench in the case of **Ramesh Sinha** (supra), this Court is of the considered opinion that the impugned order dated 09.03.2026, whereby the petitioner's appointment was cancelled solely on the ground that his community is not included in the Central List of OBCs, cannot be sustained.

21. Consequently, the impugned cancellation order dated 09.03.2026, issued by the respondent No. 4, Commandant, Group Centre, CRPF, Khatkhati, Karbi Anglong, Assam, is hereby set aside and quashed.

22. As a necessary corollary, the petitioner shall be treated as continuing in service as Constable (General Duty) pursuant to the appointment order dated 24.01.2026, with continuity of service. The respondent authorities shall give effect to this order forthwith and extend to the petitioner all consequential

service benefits, including seniority, in accordance with law.

23. Accordingly, the writ petition stands allowed in terms above.

JUDGE

Comparing Assistant