

GAHC010251662022



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

**Case No. : WP(C)/7927/2022**

BIPLAB KARMAKAR  
S/O- PARESH KARMAKAR,  
VILL- KHANABARI, PONENAYANI,  
P.O- BAGRIBARI, P.S- GAURIPUR, DIST- DHUBRI, ASSAM, PIN-783349

VERSUS

THE UNION OF INDIA AND 7 ORS .  
REP BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME  
AFFAIRS , NEW DELHI-110001

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

3:THE REGIONAL DIRECTOR  
STAFF SELECTION COMMISSION  
GUWAHATI  
ASSAM  
HOUSE FED COMPLEX  
DISPUR  
GUWAHATI  
PIN-781006

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

5:THE DIRECTOR GENERAL

SASHASTRA SEEMA BAL 5-6  
VIVEKANANDA MARG  
EAST BLOCK  
R.K. PURAM  
NEW DELHI  
PIN-110022

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  
PIN-110003

8:THE DIRECTOR GENERAL  
CENTRAL INDUSTRIAL SECURITY FORCE  
BLOCK NO. 13  
CGO COMPLEX  
LODHI ROAD  
NEW DELHI  
PIN-11000

**Advocate for the Petitioner** : MD H R AHMED

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

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**O R D E R**

**09.12.2022**

Heard Mr. HR Ahmed, learned counsel for the petitioner and Mr. SS Roy, learned CGC for the respondents.

2. The petitioner herein participated in a selection process for the posts of

Constable (GD) in the CAPFs pursuant to an employment notice dated 21.07.2018. The petitioner otherwise belong to the OBC category. Being candidates belonging to OBC category, the petitioner is entitled to a relaxation in the required height and size of chest. By availing such relaxation as regards height and chest, the petitioner entered the selection process as OBC category candidate. According to the petitioners although he has availed the relaxation in height and size of chest, being OBC category candidate, in the selection process as per merit, the petitioner was above the merit of the last selected general category candidate and as such claimed that he should be selected and appointed as general category candidate.

3. The aforesaid situation had arisen in a circumstance, which is an admitted position of the parties that the last selected candidate in the OBC merit wise was in a higher position than the last selected candidate in the general category and in the circumstance, the petitioner as OBC category candidate was not eligible in the category of OBC, but his merit performance made them to be placed at a position higher than the last selected general category candidate.

4. Mr. SS Roy, learned CGC for the respondents have produced the result of the writ petitioner involved in the writ petition. As per the result produced, the writ petitioner had secured more marks in order of merit than the last selected general category candidate.

5. As per the law of reservation, if a reserved category candidate secures more marks in order of merit than the last selected general category candidate, his candidature is to be considered as a general category candidate for the merit purpose.

6. Accordingly, as the petitioner had secured more marks than the last

selected general category candidate, we are of the view that the petitioner is entitled to be selected and appointed as Constable (GD) as general category candidate.

7. In view of such declaration, we direct the respondents to pass a reasoned order by taking note of the conclusion arrived hereinabove and accordingly issue appropriate appointment orders.

8. The writ petition allowed, as indicated above.

A copy of the comparative marks given is kept on record.

**JUDGE**

**Comparing Assistant**