

GAHC010001272026



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

Case No. : WP(C)/123/2026

MRS JASMINE BEGUM
WIFE OF TAJAJUL ALI, , RESIDENT OF VILLAGE- MISSAMORATE TEA
ESTATE, HOUSE NO. 146, P.O.- RANGAMATI, P.S.- DERGAON, PIN- 785614,
DIST.- GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT, OF ASSAM,
DISPUR, GUWAHATI- 6.

2:THE SECRETARY
STATE LEVEL RECRUITMENT COMMISSION FOR CLASSIII POSTS
ASSAM ADMINISTRATIVE STAFF COLLEGE
JAWAHARNAGAR
KHANAPARA
GUWAHATI- 22.

3:THE SECRETARY
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE COMMISSIONER AND SECRETARY
HEALTH FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI-6.

5:THE SUPERINTENDT OF GMC AND H
BHANGAGHAR
GHUWAHATI- 05.

6:THE JOINT SECRETARY TO THE GOVT OF ASSAM
MEDICAL EDUCATION AND RESEARCH DEPARTMENT
D- BLOCK
GROUND FLOOR
ASSAM SECRETARIATE CIVIL
DISPUR
GUWAHATI- 06. 7

7:THE LABOUR COMMISSIONER
ASSAM
SHRAM BHAWAN
B.K. KAKATI ROAD
ULUBARI
GUWAHATI- 07.

8:THE LABOUR WELFARE DEPARTMENT
ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI-781006

For the Petitioner(s) : Mr. S.P. Das, Advocate

For the Respondent(s) : Mr. B. Gogoi, Addl. A.G.
Mr. B. Choudhury, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : **09.01.2026**

Issue notice making it returnable on 13.02.2026.

2. Mr. B. Gogoi, the learned Additional Advocate General appears on behalf of the respondent Nos. 1 and 3 to 8 and Mr. B. Choudhury, the learned Standing Counsel appears on behalf of the respondent No. 2 and accepts notice.
3. Extra copies of the writ petition be served upon them during

the course of the day.

4. The petitioner herein is aggrieved by the rejection of her candidature to the post of Grade-III under Category-I wherein the petitioner applied as a PwBD candidate. It is the case of the petitioner that the petitioner was issued the disability certificate on 19.05.2023 by the certifying authority authorized in terms with Section 57(1) of the Rights of Persons with Disabilities Act, 2016, (for short, "the Act of 2016") wherein it is duly mentioned that the petitioner has 40% permanent disability in relation to her right femur and right knee. It is the further case of the petitioner that although in the advertisement dated 30.10.2023 there is no mention that there would be a further medical examination, but the petitioner was informed in the provisional result, was intimated that the petitioner has to undergo medical examination and clearance from the Medical Board constituted for that purpose. It is the further case of the petitioner that in pursuance thereto, the petitioner was intimated vide a communication dated 22.12.2025 that upon assessment being made by the Medical Board, it was found that the petitioner's disability is only to the extent of 15% and as such the petitioner does not fall within the ambit of the definition of "person with benchmark disability" as defined in Section 2(r) of the Act of 2016.

5. The learned counsel appearing on behalf of the petitioner submitted that the disability certificate so issued to the petitioner is in terms with Section 58 of the Act of 2016 read with Rule 18 of the Rights of Persons with Disabilities Rules, 2017 (for short, "the Rules of 2017"). The learned counsel further submitted that in terms with Section 58(3) of the Act of 2016 as well as Rule 19 of the Rules of 2017, the respondents cannot reassess or review the disability as mentioned in the certificate which has been issued unless and until the disability certificate so issued is cancelled or revoked or modified in accordance with law. The learned counsel further submitted that the decision of the Medical Board so constituted cannot override the disability certificate which has been issued to the petitioner and accordingly the rejection of the petitioner's candidature is apparently in conflict with the provisions of the Act of 2016 and the Rules of 2017.

6. Per contra Mr. B. Gogoi, the learned Additional Advocate General appearing on behalf of the Health Department as well as the other departments of the Government of Assam submitted that the medical examination is done on the basis of an Office Memorandum of the Government of Assam which mandates that even if a person applies as a candidate in the quota of persons with benchmark disability but before issuance

of the appointment order, there is a necessity for undergoing a medical examination. It is under such circumstances, in the provisional results, the petitioner was asked to undergo medical examination and upon medical examination it was found that the petitioner did not come within the ambit of the definition of "person with benchmark disability".

7. This Court has duly considered the respective submissions and, more particularly, the provisions of Section 58(3) of the Act of 2016 and Rule 19 of the Rules of 2017, which stipulates that the disability certificate so issued by the certifying authority would be valid. It is the prima facie opinion of this Court that without revocation, modification or alteration to the disability certificate by the certifying authority in accordance with the provisions of law, the Respondent Authorities cannot give a go by to the said certificate, more so, when the said certificate has a statutory recognition in terms with Section 58(3) of the Act of 2016. Under such circumstances, this Court is of the opinion that the petitioner herein is entitled to certain interim directions.

8. Accordingly, this Court observes that till the next date, the Respondent Authorities shall not fill up 1 (one) post of Grade-III under Category-I wherein the petitioner applied as a PwBD candidate.

9. The respondents are directed to bring on record their stand by filing the affidavits on or before 06.02.2026.
10. Liberty given to the petitioner to file reply on or before the next date.
11. List accordingly.

JUDGE

Comparing Assistant