

GAHC010080222026



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

Case No. : WP(C)/2248/2026

DEBANGA TALUKDAR
S/O NIKUNJA TALUKDAR, R/O VILLAGE- NAPARA, SARUPETA, P.O.-
SARUPETA, P.S.- PATACHARKUCHI, DISTRICT- BARPETA, ASSAM- 781318.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, WATER RESOURCE DEPARTMENT, DISPUR,
GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
DEPARTMENT OF SOCIAL JUSTICE AND EMPOWERMENT
DISPUR
GUWAHATI- 781006

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
MEDICAL EDUCATION AND RESEARCH DEPARTMENT
DISPUR
GUWAHATI- 781006

4:THE ADDITIONAL CHIEF ENGINEER
LOWER ASSAM ZONE
WATER RESOURCE DEPARTMENT
BASISTHA
GUWAHATI- 781029

5:THE JOINT DIRECTOR OF HEALTH SERVICES

BAJALI
PATHSALA SDCH
HOSPITAL ROAD
PATHSALA
BAJALI
ASSAM- 781301

6:TEH MEDICAL BOARD
C/O THE PRINCIPAL CUM CHIEF SUPERINTENDENT
GUWAHATI MEDICAL COLLEGE AND HOSPITAL
GUWAHATI- 781005

7:THE ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI- 78102

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MRS J M KONWAR,MR H AGARWAL,MR J SINGH,MS. B SOREN,MS M ZOMUANPUII,MR P DOLEY,MS S JAIN

Advocate for the Respondent : SC, WATER RESOURCE, SC, APSC,SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

04.05.2026

Heard Ms. J.M. Konwar, learned counsel for the petitioner. Also heard Mr. T.J. Mahanta, learned Senior Counsel and Standing Counsel, APSC assisted by Ms. P. Sarma, learned counsel for the respondent No. 7; Mr. D Upamanyu, learned counsel for the respondents No. 3, 5 & 6 and Ms. P Seyie, learned counsel appears for the respondents No. 1, 2 & 4.

The learned counsel for the petitioner submits that the petitioner participated in the selection process undertaken by the APSC, was duly recommended and selected, and his name appeared in the recommendation list issued by the APSC. Pursuant thereto, the petitioner, along with other similarly situated candidates, was appointed by an order dated 11.02.2026 issued by the

Department of Water Resources. The petitioner's name appeared at Sl. No. 137, and he was appointed in the office of the Additional Chief Engineer, Lower Assam Zone. The petitioner is a PWD candidate having a hearing disability which satisfies the benchmark disability requirement.

It is submitted that pursuant to his appointment, the petitioner was again referred to a Medical Board constituted and on being received by the medical report, the department of Water Resources did not permit to join the writ petitioner as according to the department as per the medical report, the petitioner was declared to have 3% bilateral mild hearing loss disability as per the BERA tests undertaken.

It is submitted by the learned counsel for the petitioner that the petitioner has been declared to be person of benchmark disability and has been issued a certificate by the competent authority and on the basis of which the petitioner applied for and was permitted to appear in the APSC recruitment process. He was duly selected and his name appeared in the recommendation and pursuant thereto the appointment order also issued. It is submitted that the test undertaken subsequently by the medical Board by resorting to the BERA test is contrary to the provisions of the notification dated 12.03.2024 issued by the Ministry of Social Justice and Empowerment where it is provide at Clause 20.2.2 that in respect of hearing disability, the test is to be undertaken by the Pure Tone method and a calculation of the Pure Tone average was required to be on the basis on which the disability in respect of hearing disability is to be ascertained. It is therefore submitted that the action of the respondent authority is contrary to the provisions of law and therefore needs to be set aside and the writ petitioner be permitted to join as per the appointment order. It is further submitted that since the appointment order has already been issued, one post

be kept vacant in respect of the writ petitioner till the disposal of the writ petition.

Mr. T.J. Mahanta, learned senior counsel submits that the APSC has already recommended the selected candidates including the writ petitioner therefore, there is no claim in respect of the petitioner in so far as the APSC is concerned.

Let notice be issued, returnable in four weeks.

Since the respondents are already represented by their respective counsel, notices are waived. However, extra copies be furnished within one week from today.

Issue notice on the interim prayer also, returnable on 05.06.2026.

Till the next date fixed, the post in which the writ petitioner was shortlisted and recommended for being appointed namely Jr. Engineer in the Office of the Addl. Chief Engineer, Lower Assam, Lower Assam Zone, Water Resources Department shall not be filled up without leave of the Court.

List on 05.06.2026.

JUDGE

Comparing Assistant