

GAHC010137752018



2026:GAU-AS:84

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

Case No. : WP(C)/4280/2018

SADIKUL ALOM LASKAR
S/O- LUKMAN UDDIN LASKAR, VILL- KHADIMAN, P.O- BADARPUR GHAT,
DIST- KARIMGANJ, ASSAM, PIN- 788803

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HEALTH AND FAMILY WELFARE(A), DEPTT, DISPUR, GHY- 06

2:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI- 781036
CUM CHAIRMAN
SELECTION COMMITTEE OF GRADE IV
WARD BOY
NIGHT CHOWKIDAR
ETC
HEALTH SERVICES
ASSAM

3:THE JOINT DIRECTOR OF HEALTH SERVICES
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM
PIN- 78871

Advocate for the Petitioner : MR. A CHOUDHURY, MR S ISLAM,MR. A K TALUKDAR

Advocate for the Respondent : SC, HEALTH,

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

05/01/2026

Heard Mr. A K Talukdar, learned counsel for the petitioner and Ms. B Bora, learned Standing counsel, Health and Family Welfare Department.

2. The grievance raised in the present writ petition is to the effect that the petitioner, who is a person with benchmark disability, although, had participated in the selection process in pursuance to an advertisement dated 16.12.2017, he was not recommended for appointment against the post advertised.

3. The petitioner in pursuance to an advertisement dated 16.12.2017 issued by the Director of Health Services, Assam had submitted his application for appointment against the posts of Ward Boy and Night Chowkidar as advertised. The petitioner had along with his application submitted a disability certificate issued to him by the competent authority.

4. It is to be noted that vide the said advertisement, 3% of the posts available were reserved for persons with benchmark physical disability. The application of the petitioner being found to be confirming to the eligibility criteria setout in the said advertisement, he was allowed to participate in the selection process. The petitioner participated in the written examination. Thereafter, the select list was published on 17.05.2018 and therein, the name of the petitioner not figuring, he has instituted the present writ petition.

5. The petitioner in the present writ petition has prayed that his case be directed to be considered against a post falling within the 3% reserved post for physically disabled persons.

6. Mr. A K Talukdar, learned counsel for the petitioner, by reiterating the facts noticed, hereinabove, has submitted that it is not disputed that the petitioner is a person with

disability. The petitioner had participated in the selection process and he was entitled to be considered for appointment against the advertised post for which he had submitted his application.

Mr. Talukdar, learned counsel for the petitioner submits that the respondent authorities without assigning any reason had proceeded to deny to the petitioner his due appointment against the post reserved for persons with benchmark disability vide the advertisement in question.

Accordingly, in the above premises, Mr. Talukdar, learned counsel for the petitioner prays that a direction be issued by this Court to the respondent authorities to appoint the petitioner against any one of the posts reserved for persons with benchmark disability.

7. Per contra, Ms. B Bora, learned Standing counsel, Health & Family Welfare Department submits that the petitioner, although, had participated in the selection process, he did not qualify in the written examination. Accordingly, the case of the petitioner was not considered for the further stages of the recruitment process. The petitioner not having cleared the written examination, the case of the petitioner cannot be considered for appointment even against the post reserved for persons with disability in the recruitment process in question. She further submits that 3% posts kept reserved for persons with disability have been filled up by appointing candidates found suitable on merits in the said recruitment process.

8. I have heard the learned counsels for the parties and also perused the materials available on record.

9. The facts noticed, hereinabove, are not in dispute.

10. The petitioner is a person having benchmark disability and he had applied for the post of Night Chowkidar and Ward Boy in pursuance to the advertisement dated 16.12.2017. The petitioner was permitted to appear in the selection process. The petitioner appeared for the written examination, however, the materials brought on record reveals that the petitioner did not qualify in the written examination so held. The said aspect of the matter was brought

on record by the Director of Health Services, Assam by way of filing an affidavit-in-opposition on 20.12.2018. The contentions raised in the said affidavit-in-opposition, being relevant, is extracted hereinbelow:

“11. That as regards to the statements made in paragraph No. 9 of the writ petition; the deponent begs to state that as the Petitioner did not qualify in the written examination therefore he was not selected and appointed. Those persons with disability who qualified in the written examination have been selected and appointed under 3% reservation quota for Person with Disability (PWD).

12. That as regards to the statements made in paragraph No. 10 of the writ petition; the deponent begs to state that the 3% reservation quota for physically handicapped persons in respect of the advertised post has been maintained.

13. That as regards to the statements made in paragraph No. 11 of the writ petition; the deponent begs to state that no violation of any rules have been made as alleged by the Writ Petitioner.

14. That as regards to the statements made in paragraph No. 12 of the writ petition; the deponent begs to state that the eligible candidates under 3% reservation quota for Person with Disability (PwD) have been appointed pursuant to the advertisement made by this directorate.

15. That as regards to the statements made in paragraph Nos. 13 and 14 of the writ petition: the deponent begs to state that 3% reservation quota for physically handicapped persons have been maintained in the selection and appointment made to the advertised Grade-IV posts for newly created Model Hospitals in the State. The petitioner failed to qualify in the written examination and therefore he could not be selected and appointed. Further, Physically Handicapped persons have been appointed under 3% reservation quota pursuant to the advertisement for 329 post of Grade-IV (Ward Boy/Night

Chowkidar) meant newly created Model Hospitals of the District level in the State.

It is relevant to mention herein that some physically handicapped candidates who were selected could not produce their medical certificate and therefore they were not appointed inspite of their selection and as a result a few post reserved for Person with Disability could not be filled up.

Total Advertised Post	329
3% Reservation Quota	9
Appointment of PWD made	5

In this regard it is further submitted that physically handicapped person under 3% reservation quota have already been appointed.”

11. The said contentions made by the respondent authorities in the affidavit-in-opposition has not been disputed by the petitioner by way of filing an affidavit-in-reply, although, the said affidavit-in-opposition was filed way back on 20.12.2018.

12. The petitioner having not qualified in the written examination, his case could not have been considered further in the said selection process and accordingly, the petitioner is not entitled to be appointed against any of the vacant post advertised vide advertisement dated 16.12.2017, including the posts reserved for persons with disability.

13. In view of the said position as emanating in the matter and the petitioner not having qualified in the selection process as held in pursuance to the advertisement dated 16.12.2017, this Court is of the considered view that no direction can be issued to the respondent authorities to consider the case of the petitioner for appointment against any one of the vacant posts advertised vide advertisement dated 16.12.2017.

14. Accordingly, the present writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to cost.

15. The interim order passed by this Court vide order dated 20.11.2018 stands vacated.

JUDGE

Comparing Assistant