

GAHC010162642022



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

Case No. : WP(C)/5335/2022

KISHORE SAIKIA
S/O- SRI HEMANTA SAIKIA,
DHEMAJI TOWN, WARD NO. 3, RAILWAY STATION ROAD,
P.O.- DHEMAJI,
PINCODE- 787057,
DISTRICT- DHEMAJI,
ASSAM.

VERSUS

ASSAM PUBLIC SERVICE COMMISSION AND 7 ORS.
REPRESENTED BY ITS CHAIRMAN, JAWAHAR NAGAR, GUWAHATI-
781022.

2:SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA- 781022.

3:THE PRINCIPAL CONTROLLER OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022.

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY
DEPARTMENT OF PERSONNEL-A
DISPUR
GUWAHATI- 781006.

5:LABOUR COMMISSIONER
OFFICE OF THE LABOUR COMMISSIONER
ASSAM
GOPINATH NAGAR
GUWAHATI-16.

6:COMMISSIONER AND SECRETARY TO THE FINANCE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR- 781006.

7:UTTAM PEGU
LABOUR INSPECTOR
THROUGH THE LABOUR COMMISSIONER
ASSAM
GOPINATH NAGAR
GUWAHATI- 16.

8:NIRAB KUMAR DEURI
LABOUR INSPECTOR
THROUGH THE LABOUR COMMISSIONER
ASSAM
GOPINATH NAGAR
GUWAHATI- 16

For the Petitioner(s) : Mr. A. Phukan, Advocate

For the Respondent(s) : Mr. T. J. Mahanta, Senior Advocate
: Ms. P. Sarma, Advocate
: Mr. A. Chakraborty, Government Advocate
: Mr. S. K. Deuri, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 06.01.2026

Heard Mr. A. Phukan, the learned counsel appearing on behalf of the
Petitioner and Mr. T. J. Mahanta, the learned Senior counsel assisted by
Ms. P. Sarma, the learned counsel appearing on behalf of the Respondent

Nos. 1, 2 and 3. I have also heard Mr. A. Chakraborty, the learned Government Advocate appearing on behalf of the Respondent No.4 and Mr. S. K. Deori, the learned counsel appearing on behalf of the Respondent Nos. 7 and 8. None appears on behalf of the Respondent Nos. 5 and 6 on call.

2. The Petitioner herein has assailed the appointment of the Respondent Nos. 7 and 8 primarily on two grounds. The first ground is that the Petitioner was not awarded marks for Question No.65 although the Petitioner had correctly answered the same. The second ground is that even de hors the first ground, the Petitioner having obtained 901 marks equal to that of the Respondent No.8, the Respondent Authorities in violation of Rule 68 of the Assam Public Service Commission (Procedure and Conduct of Business) Rules, 2010 (for short 'the Rules of 2010') have adopted an unfair and biased attitude thereby recommending and selecting the Respondent No.8.

3. Mr. A. Phukan, the learned counsel appearing on behalf of the Petitioner drawing the reference to Paragraph No.8 of the affidavit-in-opposition filed by the Respondent Nos. 1, 2 and 3 submitted that the illegalities on the part of the Respondent Nos. 1, 2 and 3 are apparent from the fact that the said Respondents have mentioned that they had adopted Rule 68 of the Rules of 2010 but have shied away from mentioning as to how the Rule 68 of the Rules of 2010 was actually applied.

4. This Court has also perused paragraph No.8 of the said affidavit-in-opposition filed by the Respondent Nos. 1, 2 and 3. It is disheartening to take note of that the Respondent Nos. 1, 2 and 3 though had mentioned

that the Petitioner and the Respondent No.8 both have secured 901 marks but they have not mentioned how Rule 68 of the Rules of 2010 was applied thereby recommending the Respondent No.8.

5. This Court also enquired with Mr. T. J. Mahanta, the learned Senior counsel who represents the Respondent Nos. 1, 2 and 3 as to on what basis, the Rule 68 of the Rules of 2010 was applied. Though the matter is of the year 2022, the APSC have not provided instructions to him in that regard. He however submitted that an affidavit would be filed by tomorrow on the aspect as to how Rule 68 of the Rules of 2010 was applied vis-à-vis the Petitioner and the Respondent No.8.

6. This Court further finds it very pertinent to take note of that the Petitioner had approached this Court after 5 (five) years from the completion of the recruitment process. Insofar as the first ground is concerned, it is the opinion of this Court that the Petitioner cannot be allowed to agitate the said ground on the basis that the Petitioner was a clear fence-sitter inasmuch as the Petitioner waited all the while when a litigation was initiated by one Hrishikesh Das by filing a writ petition being WP(C) No.5576/2017 and after the said litigation had ended with the approval of the Supreme Court to the judgment dated 19.06.2018 in WP(C) No.5576/2017, the Petitioner had approached this Court in the year 2022.

7. In that view of the matter, this Court therefore rejects the first ground. Only the second ground i.e. as to whether Rule 68 of the Rules of 2010 was correctly applied or not is the question which remains for consideration.

8. List this matter again on 08.01.2026 as the first item.

JUDGE

Comparing Assistant