

GAHC010188042023



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

Case No. : WP(C)/4925/2023

RAJDEEP GHOSH
S/O PROJENDRA GHOSH, VILL-SONAKHIRA, P.O.-CHANDHKHIRA, P.S.-
PATHERKANDI, DIST-KARIMGNAJ (ASSAM), PIN-788725, ROLL NO.-
5111000325

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, NEW DELHI-1

2:THE STAFF SELECTION COMMISSION
REPRESENTED BY THE CHAIRMAN
BLOCK NO. 12 CGO COMPLEX
LODHI ROAD
NEW DELHI-03

3:THE REGIONAL DIRECTOR
STAFF SELECTION COMMISSION
GUWAHATI
ASSAM
HOUSE FED COMPLEX
DISPUR
GHY-6

4:THE DIRECTOR GENERAL
BORDER SECURITY FORCE
BLOCK NO. 10
CGO COMPLEX
LODHI ROAD
NEW DELHI-03

5:THE INSPECTOR GENERAL
BSF
GUWAHATI FRONTIER
PATGAON
ASSAM-GHY-17

6:THE COMMANDANT (RECTT)
FRONTIER HQS
BSF
GUWAHATI
PATGAON
ASSAM-GHY-17

7:THE REVIEW MEDICAL BOARD
COMPOSITE HOSPITAL BSF
PATGAON
ASSAM-GHY-17

8:THE MEDICAL OFFICER
19 BN. BSF
ALAMGANJ (SUPERIGHAT)
DIST-DHUBRI
ASSA

Advocate for the Petitioner : MR. R MAZUMDAR, MR A MALEK, MD H R AHMED

Advocate for the Respondent : DY.S.G.I., MR. S S ROY (R-1)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

23.10.2025

Heard Mr. HR Ahmed, learned counsel for the petitioner. Also heard Ms. S Boruah, learned CGC for the respondents.

2. The petitioner, being aggrieved by the order dated 25.07.2023, has approached this Court, contending that after joining the service, he/she was declared medically unfit by the Review Medical Board at the Composite Hospital,

BSF. Learned counsel for the petitioner submits that earlier the petitioner had approached this Court by filing WP(C) No.3809/2021 along with WP(C) No.3764/2021 and these 2 (two) writ petitions came to be disposed of by a common Order dated 11.08.2022. Upon hearing the learned counsel for the parties, this Court specifically directed the respondents to accommodate the petitioners and appoint them in vacant post of Constable (GD) in any Central Armed Police Force within 3 (three) months from the date of receipt of a certified copy of this order. The grievance before the Coordinate Bench was that though the petitioners belong to the Reserved Category, they had secured more marks than some of the selected General Category candidates in the selection process. However, the appointment orders were not issued to the petitioners on the ground that they had availed the chest and height relaxation prescribed for all candidates for the State of Assam. The respondents rejected the candidature of the writ petitioners on the ground that they could have been considered only for the Reserved Category post and not for General Category posts since they had availed chest and height relaxation prescribed for all candidates for the State of Assam. Under such circumstances, the writ petitions were allowed with the direction to the respondents to accommodate and appoint the writ petitioners in the vacant posts.

3. Pursuant thereto the writ petitioner came to be appointed in the BSF.

Thereafter, the petitioner was detailed for medical examination and was directed to appear before the Review Medical Board. The Medical Board gave an opinion that the petitioner was overweight and therefore, find unfit for the service. Being aggrieved, the present writ petition has been filed.

4. The respondents have filed their counter affidavit.

5. It is seen that the Order dated 11.08.2023 passed in WP(C)No. 3809/2021 attained finality as no appeal or review was filed by the respondent authorities. Perusal of the Order dated 11.08.2023 passed in WP(C)No. 3809/2021 by the coordinate Bench reveals that there was specific direction by the Coordinate Bench to the respondents to appoint the petitioners in any central Armed Police Force within 3 (three) months and the same was accordingly undertaken by the respondent authorities by issuing appropriate appointment orders.

6. Although the counter affidavit has been filed, learned CGC representing the respondents, on a pointed query made by the Court could not referred to the specific provisions which require the person to undergo medical test and consequently, are liable to be discharged or dismissed from service, if found unfit. The petitioner was appointed provisionally on 07.02.2023 and he was discharged from service by impugned order dated 25.07.2023. Although the respondents were represented before the Coordinate Bench at the time when the Order dated 11.08.2022 was passed in WP(C) No.3809/2021 and another

allowing the writ petition filed by the writ petitioners, it is seen that the writ petitions were, ultimately, come to be allowed with a specific direction to appoint the writ petitioners in the vacant post of Constable (GD) in any Central Armed Police Force and unless the respondents are able to explain by reference to appropriate Rules or notification, it will appear that the respondents notwithstanding the specific directions passed in WP(C) No. No.3809/2021 by Order dated 11.08.2022 have proceeded not to effectively implement the order as directed.

7. Under such circumstances, at the request made by the learned CGC for the respondents to complete her instructions with regard to the queries raised by the Court, list the matter again on 17.11.2025.

JUDGE

Comparing Assistant