

GAHC010252542023



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

Case No. : WP(C)/6506/2023

ABU AHMED NURUL HASAN LASKAR
S/O- SHRI ABDUL HAQUE LASKAR,
RESIDENT OF VILLAGE- BHATISANG JURAI,
P.O.- KALIBARI BAZAR,
P.S.- ALGAPUR,
DISTRICT- HAILAKANDI,
PIN- 788150, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM,
DISPUR, GUWAHATI-06.

2:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN

JAWAHARNAGAR
GUWAHATI-22.

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
GUWAHATI-22.

4:THE DEPUTY SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
GUWAHATI-22.

5:THE PRINCIPAL CONTROLLER OF EXAMINATIONS

ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
GUWAHATI-22

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.11.2023

Heard Mr. P. K. Deka, learned counsel for the petitioner. Also heard Mr. J.K. Goswami, learned Addl. Sr. Government Advocate for the respondent No. 1 and Mr. T.J. Mahanta, learned Sr. Counsel assisted by Ms. P. Sarma, learned counsel for the APSC.

2. This writ petition has been filed by the petitioner who is a person with locomotor disability. The petitioner's disability is 55% as per the certificate issued by the competent authority.

3. Pursuant to the advertisement issued by the Assam Public Service Commission (APSC) dated 15.03.2023 calling for selection and appointment to the post of Assistant Engineer (Civil) under the joint cadre of Public Works Roads (PWRD) and Public Works (B&NH) Department [(PW (B&NH)D], the petitioner being eligible had applied for the said post. Subsequent to the advertisement dated 15.03.2023, a corrigendum was issued on 03.08.2023, whereby the post reserved for the person with Benchmark disability and reservations for Women were notified. In so far as locomotor disability is concerned a total of 3 posts were shown out of which 1 post is for backlog vacancy. The petitioner participated and thereafter results were declared on

19.10.2023. Petitioner's name, however, did not figure in the select list.

4. According to the petitioner, there are several names which were shown reflecting that the candidates belong to persons with Benchmark disability. The grievance of the petitioner is that some of the candidates are shown under the Open category and some under the reserved category. It is unclear from the select list as to whether the Open category candidates, who were also considered in the Reserved post for persons with disability or persons who were selected on the basis of their merit without the benefit of the reserved quota. It is the grievance of the petitioner that if the persons from open category were selected on merit then the candidates who are persons with disability, like the petitioner would have been selected. That apart there is a note below the select list which reflects that 6 vacancies are available as person with Benchmark disability were not be available. The grievance of the petitioner is that he meets all the Benchmark as prescribed under the Persons with Disability Act and therefore he is aggrieved by the fact that he was not considered for appointment under the said category of persons with disability and approached this Court with this present writ petition.

5. Learned counsels submit that instructions are necessary in the matter.

6. Accordingly, let Notice be issued returnable within 3 (three) weeks.

7. Respective learned counsels were complete their instructions and file necessary instructions, if so advised.

8. Since the respective counsels have appeared on behalf of the respondents, notices waived. However, extra copies of the writ petition be furnished within a period of 1 (one) week from today.

9. List this matter again after Returnable date along with W.P.(C) No.

6465/2023.

10. If out of the six (6) vacancies as shown in the footnote of the select list, any vacancy earmarked for person with locomotor disability is available, then the same shall not be filled up without leave of the Court.

JUDGE

Comparing Assistant