



GAHC010091892025



2025:GAU-AS:9862

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

Case No. : WP(C)/2325/2025

NOZRUL ISLAM LASKAR AND ANR
S/O- LATE BASIR UDDIN LASKAR, VILL. AND P.O. CHIPORSANGON, DIST.
HAILAKANDI, ASSAM, PIN- 788801.

2: GULZAR HUSSAIN BARBHUIYA
S/O- LATE KHOYER UDDIN BARBHUIYA
R/O- VILL.- NIZ FULBARI PART-III
P.O. FULBARI
P.S. KATIGORAH
DIST. CACHAR
ASSAM
PIN- 788802

VERSUS

THE GAUHATI HIGH COURT AND 17 ORS
REPRESENTED BY THE REGISTRAR GENERAL, GAUHATI HIGH COURT,
GUWAHATI-1.

2: THE CENTRALISED RECRUITMENT GAUHATI HIGH COURT
GUWAHATI
REPRESENTED BY REGISTRAR (ADMIN) -CUM- IN-CHARGE
CENTRALISED RECRUITMENT
GAUHATI HIGH COURT
GUWAHATI-1.

3: THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
JUDICIAL DEPARTMENT
DISPUR
GUWAHATI-1.

4: SURAJIT KAR



STENOGRAPHER GRADE- III
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
SONITPUR
P.O. TEZPUR
DISTRICT- SONITPUR
ASSAM. PIN-784001.

5:JAYANTA BURAGOHAIN

STENOGRAPHER GRADE III
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
CHARAIDEO
P.O. AND DIST- CHARAIDEO
ASSAM
PIN- 785640.

6:KAUSHIK NATH MAZUMDER

STENOGRAPHER GRADE III
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
CACHAR P.O. SILCHAR
DIST- CACHAR
ASSAM
PIN- 788001.

7:MANAS PRATIM MAHANTA

STENOGRAPHER GRADE- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
SIVASAGAR
P.O. AND DIST- SIVASAGAR
ASSAM
PIN- 785640.

8:ARABINDA GHOSH

STENOGRAPHER GR- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
DARRANG
P.O. MANGALDOI
DIST- DARRANG
ASSAM
PIN- 784125.

9:ATANU BISWAS

STENOGRAPHER GR- III



OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
BISWANATH
P.O. BISWANATH CHARIALI
DISTRICT- BISWANATH
ASSAM
PIN- 784176.

10:MOHIBUL ISLAM

STENOGRAPHER GR- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
LAKHIMPUR
P.O. AND DISTRICT- LAKHIMPUR
ASSAM
PIN- 787001.

11:HIMAKSHI DUTTA

STENOGRAPHER GR- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
KAMRUP (M)
P.O. GUWAHATI
DIST- KAMRUP (M)
ASSAM
PIN- 781001.

12:PARASH JYOTI CHUTIA

STENOGRAPHER GR- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
JORHAT
P.O. AND DIST- JORHAT
ASSAM
PIN- 785001.

13:MAIKEL RAY

STENOGRAPHER GR-III
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
DIMA HASAO
P.O. HAFLONG
DIST- DIMA HASAO
ASSAM
PIN-788819.

14:MRINAL KANTI SARKAR

STENOGRAPHER GR- III



OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
TINSUKIA
P.O. AND DISTRICT- TINSUKIA
ASSAM
PIN- 786125.

15:MANABI MAZUMDER

STENOGRAPHER GR- III
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
KAMRUP (M)
P.O. GUWAHATI
DISTRICT- KAMRUP (M)
ASSAM
PIN- 781001.

16:PALLAB KUMAR NATH

STENOGRAPHER GR- II
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
UDALGURI
P.O. AND DISTRICT- UDALGURI
ASSAM
PIN- 784509.

17:SOMEN CH PAUL

STENOGRAPHER GR- II
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BISWANATH
P.O. BISWANATH CHARIALI
DIST- BISWANATH
ASSAM
PIN- 784176.

18:BHASKAR BRAHMA

STENOGRAPHER GR-II
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
BAKSA
P.O. AND DIST- BAKSA
ASSAM
PIN- 781313.

19:SARADA CHAKRABORTY

STENOGRAPHER GR-II
OFFICE OF THE DISTRICT AND SESSIONS JUDGE



KOKRAJHAR
P.O. AND DIST- KOKRAJHAR
ASSAM
PIN-783370.

20:RASHMI RANJAN BORA

STENOGRAPHER GR II
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
NAGAON
P.O. AND DISTRICT- NAGAON
ASSAM
PIN- 782001

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MR. N HAQUE,MR K UDDIN,MR. A K AZAD

Advocate for the Respondent : SC, GHC, A S CHOUDHURY (R-14),MR. SURAJIT DAS(R-5,7,11,15,18,19,14,6),MD A RAHMAN(R-5,7,11,15,18,19,14),6,SAMIM RAHMAN(R-5,7,11,15,18,19,14,6),MS SURAYA RAHMAN(R-5,7,11,15,18,19,14),MR SARFRAZ NAWAZ(R-5,7,11,15,18,19,14,6),A W AMAN (R-5,7,11,15,18,19,14,6)

Linked Case : WP(C)/3408/2025

MANABENDRA MALAKAR AND ANR
S/O- SRI GOLOK MALAKAR
R/O- VILL.- BHIMABARI
P.O. BAGTA UNDER P.S. HAJO
DIST. KAMRUP
ASSAM

2: DHRUBA JYOTI DAS
S/O- SRI RAJANI KANTA DAS
R/O- VILL.- AUHALAGAON
P.O. CHARIDWAR
P.S. CHARIDWAR
DIST. SONITPUR
ASSAM
VERSUS

THE GAUHATI HIGH COURT AND 14 OTHERS
REPRESENTED BY THE REGISTRAR GENERAL
GAUHATI HIGH COURT



GUWAHATI-1
KAMRUP METRO
ASSAM

2:THE CENTRALIZED RECRUITMENT
GAUHATI HIGH COURT
GUWAHATI
REPRESENTED BY REGISTRAR (ADMIN)-CUM-IN-CHARGE
CENTRALISED RECRUITMENT
GAUHATI HIGH COURT
GUWAHATI-1.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
JUDICIAL DEPARTMENT
DISPUR
GUWAHATI-1.

4:SURAJIT KAR
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
SONITPUR
P.O. TEZPUR
DIST. SONITPUR
ASSAM
PIN- 784001.

5:JAYANTA BURAGOHAIN
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
CHARAIDEO
P.O. AND DIST. CHARAIDEO
ASSAM
PIN- 785640.

6:KAUSHIK NATH MAZUMDER
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
CACHAR
P.O. AND P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

7:MANASH PRATIM MAHANTA
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
SIVASAGAR
P.O.
P.S. AND DIST. SIVASAGAR
ASSAM



PIN- 785640.

8:ARABINDA GHOSH
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
DARRANG
P.O. AND P.S. MANGALDOI
DIST. DARRANG
ASSAM
PIN- 784125.

9:ATANU BISWAS
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
BISWANATH
P.O. BISWANATH CHARIALI
P.S. AND DIST. BISWANATH
ASSAM
PIN- 784176.

10:MOHIBUL ISLAM
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
LAKHIMPUR
P.O.
P.S. AND DIST. LAKHIMPUR
ASSAM
PIN- 787001.

11:SMTI HIMAKSHI DUTTA
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
KAMRUP METRO
GUWAHATI
P.O. AND P.S. PANBAZAR
DIST. KAMRUP METRO
ASSAM
PIN- 781001.

12:PARASH JYOTI CHUTIA
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
JORHAT
P.S. AND DIST. JORHAT
ASSAM
PIN- 785001.

13:MAIKEL ROY
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
DIMA HASAO
P.O. HAFLONG
DIST. DIMA HASAO
.ASSAM



PIN- 788819.

14:MRINAL KANTI SARKAR
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
TINSUKIA
P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN- 786125.

15:SMTI MANABI MAZUMDER
OFFICE OF THE CHIEF JUDICIAL MAGISTRATE
KAMRUP(M)
GUWAHATI
P.O. AND P.S. PANBAZAR
DIST. KAMRUP METRO
ASSAM
PIN- 781001.

Advocate for : MR. L MOHAN
Advocate for : GA
ASSAM appearing for THE GAUHATI HIGH COURT AND 14 OTHERS

Linked Case : WP(C)/2410/2025

MITHU YADAV
S/O- SRI RAM CHANDRA GOALA

R/O. VILL- NATUN BAZAR DERBY ROAD
P.O.- NARSINGPUR
P.S.- DHOLAI
DIST.- CACHAR
ASSAM
PIN- 788115.

VERSUS

THE GAUHATI HIGH COURT AND 5 ORS
REP. BY ITS REGISTRAR GENERAL
UZANBAZAR
GUWAHATI- 01.



2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPT. OF LAW
DISPUR
GUWAHATI- 06.

3:RASHMI RANJAN BORA
C/O. REGISTRAR GENERAL OF GAUHATI HIGH COURT
UZANBAZAR
GUWAHATI- 01.

4:BHASKAR BRAHMA
C/O. REGISTRAR GENERAL OF GAUHATI HIGH COURT
UZANBAZAR
GUWAHATI- 01.

5:SOMEN CH. PAUL
C/O. REGISTRAR GENERAL OF GAUHATI HIGH COURT
UZANBAZAR
GUWAHATI- 01.

6:PALLAB KUMAR NATH
C/O. REGISTRAR GENERAL OF GAUHATI HIGH COURT
UZANBAZAR
GUWAHATI- 01.

For the Petitioner(s) : Mr. P.K. Roychoudhury, Advocate
: Mr. M.A. Sheikh, Advocate
: Mr. L. Mohan, Advocate

For the Respondent(s) : Mr. T.R. Gogoi, Government Advocate
: Mr. H.K. Das, Standing Counsel
: Mr. S. Das, Advocate

Date of Hearing : **26.06.2025**

Date of Judgment : **31.07.2025**



**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (CAV)

Heard Mr. P.K. Roychoudhury, the learned counsel appearing on behalf of the petitioners in WP(C) No. 2325/2025; Mr. M.A. Sheikh, the learned counsel appearing on behalf of the petitioner in WP(C) No. 2410/2025 and Mr. L. Mohan, the learned counsel appearing on behalf of the petitioners in WP(C) No. 3408/2025. Mr. H.K. Das, the learned Standing Counsel appears on behalf of the Gauhati High Court. Mr. T.R. Gogoi, the learned Government Advocate appears on behalf of the Judicial Department of the Government of Assam and Mr. S. Das, the learned counsel appears on behalf of the private respondents.

2. The challenge made in the 3 (three) writ petitions relate to a Notification dated 22.04.2025 whereby the private respondents in WP(C) No. 2325/2025 were selected for promotion to the post of Stenographer Grade-I in the District Courts of Assam. The challenge to the impugned Notification by the petitioners in the respective writ petitions are on different grounds, but taking into account that it relates to the challenge to the impugned Notification dated 22.04.2025, all the 3 (three) writ petitions are taken up together for disposal by this common judgment and order.

3. Before proceeding to analyze the dispute, this Court finds it



relevant to take note of the brief facts and the respective challenges made by the petitioners in the 3 (three) writ petitions *infra*.

WP(C) No. 2325/2025

4. The petitioners herein are working as Stenographer Grade-II in the District Judiciary of Assam. Pursuant to a Notification dated 09.12.2024 issued by the Registrar (Administration)-cum-In charge, Centralized Recruitment, Gauhati High Court inviting applications from serving Stenographers of the District Courts of Assam for participation in the promotional process for promotion to Stenographer Grade-I, the petitioners herein participated in the said selection process. Along with the petitioners, 133 other candidates have also participated in the said selection process. Out of the total 135 numbers of eligible candidates as per the Notification issued on 09.12.2024, 32 numbers of candidates were from Stenographer Grade-II and 103 numbers of candidates were from Stenographer Grade-III. This aspect of the matter would be apparent from a perusal of Annexure-5 of WP(C) No. 2325/2025. Pursuant to the publication of the list of provisionally eligible candidates, which is annexed as Annexure-5 to WP(C) No. 2325/2025, a selection was held in the manner provided in the Notification dated 09.12.2024. At this stage, it is relevant to take note of the manner in which the selection proceedings were to be conducted as stipulated in the Notification dated 09.12.2024 which is

reproduced herein under:

“Eligible stenographers, who furnish their options, will have to appear in a Speed Test as indicated below:

Speed Test for promotion to Grade-I		
Sl. No.	Subject	Time/Marks
1	Voice testing before dictation	2 minutes
2.	Speed test in Shorthand at a speed of 80 words per minute (Duration 7 minutes) [560 words]	50 marks/Duration 7 minutes
3.	Time to be given to the candidates for testing the Computer	3 minutes
4.	Time for transcription of the dictated portion	20 minutes
5.	Candidates securing 30 or more marks out of 50 will be eligible for promotion to Grade-I”	

5. From the above quoted procedure, so stipulated in the recruitment Notification dated 09.12.2024, it would be seen that the total marks, for which, the selection was to be held was 50 marks and out of that, a candidate securing 30 or more marks would be considered eligible for promotion to Grade-I. It is also very pertinent



to take note of the eligibility criteria mentioned in the recruitment Notification dated 09.12.2024 which stipulated that as on the last date of submission of the applications, i.e., 20.12.2024, the candidate has to complete 5 (five) years of service as Stenographer Grade-II or Grade-III in the District Judiciary of Assam. This aspect of the matter assumes importance in view of the challenge made by the petitioner in WP(C) No. 2410/2025.

6. The record further reveals that the Registrar (Administration)-cum-In charge, Centralized Recruitment, Gauhati High Court had issued a rank-wise mark sheet of Stenographers who appeared in the speed test held on 02.03.2025 in connection with the promotion to Stenographer Grade-I. The said rank-wise mark sheet has been enclosed as Annexure-6 to WP(C) No. 2325/2025. It is relevant to take note of that in the said rank-wise mark sheet, the private respondents are enlisted at serial No. 1 to 17. The petitioner No. 1 and petitioner No. 2 in WP(C) No. 2325/2025 are at serial No. 46 and 89 respectively. The writ petitioner in WP(C) No. 2410/2025 is at serial No. 18 and the writ petitioner Nos. 1 and 2 in WP(C) No. 3408/2025 are at serial No. 54 and 68 respectively. On the basis of the said rank-wise mark sheet, the Registrar (Administration)-cum-In charge, Centralized Recruitment, Gauhati High Court had issued the impugned Notification dated 22.04.2025 whereby the private respondents in WP(C) No. 2325/2025 were selected for promotion to the post of



Stenographer Grade-I in the District Courts of Assam. It is under such circumstances, the petitioners in WP(C) No. 2325/2025 have assailed the said impugned Notification dated 22.04.2025 primarily on two grounds.

First, that in terms with the Shetty Commission's recommendation, the feeder post to the post of Stenographer Grade-I is Stenographer Grade-II and under such circumstances, the Stenographer Grade-III, could not have been permitted to participate in the said selection process. The recruitment Notification dated 09.12.2024 was assailed on the ground that Stenographer Grade-II and Grade-III, having 5 years of experience, were allowed to participate in the said selection process.

Secondly, it is the specific case of the petitioners in WP(C) No. 2325/2025 that the Shetty Commission's recommendation was binding upon the Gauhati High Court on the Administrative side, in view of the orders passed by the Supreme Court and the Gauhati High Court on the Administrative side accepting the recommendations of the Shetty Commission. It was therefore the contention that even assuming for argument's sake, the Gauhati High Court on the Administrative side could have adopted a one-time measure though frequently resorted to, since 2013, on the ground of non-availability of eligible candidates belonging to the Stenographer Grade-II, but once the Stenographer



Grade-II are eligible, the Stenographer Grade-III cannot be allowed to march ahead of the candidates, who are eligible Stenographer Grade-II.

WP(C) No. 2410/2025

7. The petitioner in the instant proceedings is working as a Stenographer Grade-III in the office of the Chief Judicial Magistrate, Cachar, Silchar for the last 8½ years. The facts pertaining to the recruitment process having already been dealt with, while narrating out the facts in WP(C) No. 2325/2025, this Court would not like to reiterate the same for the sake of brevity. The relevant facts in the present writ petition i.e. WP(C) No. 2410/2025 is that the petitioner, having 8½ years of service as Stenographer Grade-III was eligible as per the eligibility condition stipulated in the recruitment Notification dated 09.12.2024. It was the specific case of the petitioner in WP(C) No. 2410/2025 that the respondent Nos. 3, 4, 5 and 6 in WP(C) No. 2410/2025 who were at serial Nos. 3, 4, 6 and 16 respectively of the impugned Notification dated 22.04.2025 did not meet the eligibility criteria inasmuch as the said private respondents did not have 5 years of experience in Stenographer Grade-II or 5 years of experience in Stenographer Grade-III. In other words, it is the specific contention of the petitioner in WP(C) No. 2410/2025 that the eligibility criteria mentioned in the recruitment Notification dated 09.12.2024 should be



read that each candidate should have either 5 years of experience as Stenographer Grade-II or 5 years of experience in Grade-III in the District Judiciary of Assam and not a combined experience of 5 years as Stenographer Grade-II or Grade-III in the District Judiciary of Assam. It was therefore the specific case of the petitioner that though the private respondent Nos. 3, 4, 5 and 6 had more than 5 years of total experience in Stenographer Grade II or Grade III in the District Judiciary of Assam, but as the said private respondents did not have 5 years of service as Stenographer Grade-II or Grade-III, they were not eligible.

WP(C) No. 3408/2025

8. The petitioners in the present writ petition are Grade-III Stenographers having 13 years of length of service in the present cadre. They were eligible to be considered for promotion to Stenographer Grade-I as they have secured more than 30 (thirty) marks i.e. the petitioner No. 1 secured 43.75 marks and the petitioner No. 2 secured 42.14 marks respectively and the petitioners were given the ranks at serial Nos. 54 and 68 respectively of the rank-wise mark sheet. The specific case of the petitioners herein is that they having completed 13 years of service as Stenographer Grade- III, they should have been given the promotion to the post of Stenographer Grade-I or in other words they should be promoted to Stenographer Grade-I



merely on the basis of their seniority.

9. It is relevant to take note of that upon WP(C) No. 2325/2025 being filed, this Court issued notice on 01.05.2025 and further stayed the impugned Notification dated 22.04.2025 as well as all further Notifications issued on the basis thereof. The said interim order continues till date.

STAND OF THE RESPONDENT NOS. 1 & 2 IN WP(C) NO. 2325/2025

10. At the outset, it is relevant to take note of that at the time of conducting the hearing, Mr. H.K. Das, the learned Standing Counsel representing the respondent Nos. 1 and 2 had submitted that the affidavit-in-opposition filed in WP(C) No. 2325/2025 be treated as the stand taken by the said respondents in all the writ petitions.

11. It was stated in the said affidavit-in-opposition that pursuant to the decision taken by the "Committee for Centralized Recruitment of Officers and Staff of the Subordinate Judiciary and all Benches of the High Court", dated 22.02.2018, the eligibility criteria was relaxed to 5 years in service experience as Stenographer in any Grade as one-time measure to tide over the situation of lack of sufficient numbers of eligible candidates for promotion to Stenographer Grade-I. It was mentioned that the said respondents while publishing the Notification



dated 09.12.2024 took decision to follow the decision in the Minutes dated 22.02.2018 i.e. opening the vacancies to any Grade-II or Grade-III Stenographers, because of lack of sufficient Stenographer Grade-II, as the promotion was based on merit determined by speed test.

12. It was categorically stated that the insufficiency of candidates from Stenographer Grade-II was established from the fact that out of 31 Stenographer Grade-II, only 5 (five) candidates could achieve the cutoff mark of 46.78. Further to that, it was mentioned that since 2018, the Centralized Recruitment Cell conducted 5 recruitment processes i.e., in the year 2018, 2019, 2020, 2023 and 2024 and even after inclusion of both Grades for taking part in the promotional process in Stenographer Grade-I, substantial numbers of posts remained unfilled on account of failure to acquire the minimum cutoff marks in the speed test. The details so provided were that in the year 2018, 33 posts remained unfilled out of 38 vacant posts; in the year 2019, 31 posts remained unfilled out of 36 vacant posts; in the year 2020, 31 posts remained unfilled out of 34 vacant posts and in the year 2023, 9 posts remained unfilled out of 52 vacant posts. It was stated that non-filling up of the posts causes delay in the Court proceedings and accordingly effects the administration of justice. Therefore, only in the interest of public and for betterment of the administration of justice, a conscious decision was taken by the High Court to follow the resolution dated 22.02.2018.



13. In the said affidavit-in-opposition, the maintainability of the writ petition was challenged on the ground that the petitioners having already participated in the said selection process, they cannot be permitted to challenge the recruitment Notification dated 09.12.2024. It was further mentioned that candidates securing 30 or more marks out of 50 in the skill test were eligible for promotion to the post of Stenographer Grade-I. It was further clarified that only the candidates securing 30 or more marks in the skill test will be in the zone of consideration for promotion to the post of Stenographer Grade-I. However, merely securing 30 or more marks does not automatically entitle a candidate to claim promotion inasmuch as promotion cannot be claimed as a matter of right, and the final selection is done purely on the basis of *inter-se* merit, which is dependent upon the number of vacancies or number of posts advertised.

14. It was further stated that the promotion to the post of Stenographer Grade-I in the District Courts of Assam is not based on seniority, rather it is made purely on the basis of merit determined through a selection process, i.e., skill test and accordingly, the top 17 candidates in accordance with their merit position were recommended for selection in the instant promotion process. It was further mentioned that the Notification dated 09.12.2024 was published in terms with the decisions contained in the resolution dated 22.02.2018 and the petitioners, without any challenge to the said resolution,

cannot maintain the instant writ petition. It was further averred that precisely on the same ground, the earlier writ petition being WP(C) No. 3123/2023 was dismissed by this Court. It was reiterated that the decision was taken by the High Court is as one-time measure and does not amount to treating unequal as equal. Further to that, it was stated that in the event of accepting the contention of the petitioners to fill up the post by following the recommendation of the Shetty Commission, only 5 Stenographer Grade-II would be eligible, rendering remaining posts to be unfilled, which would seriously hamper the administration of justice.

15. To the said affidavit-in-opposition, the respondents have enclosed a datasheet giving details as to how many candidates participated in the selection process held in the year 2018, 2019, 2020, 2023 and 2024. The said datasheet being relevant is reproduced herein under:

Sl. No.	Year	Nos. of vacancies	Total Applicants Having five years of experience (Grade-II & Grade-III)	Nos. of Steno Grade-II Applicants	Nos. of Steno Grade-III Applicants	Total selected	No of Steno Grade-II selected	No of Steno Grade-III selected	Posts remained vacant after completion of the process
1	2018	38**	22	14	8	5	5	0	33
2	2019	34**	15	10	5	3	3	0	31

3	2020	36	34	15	19	5	1	4	31
4	2023	52	129	37	92	43	17	26	9
5	2024	17	135	32	103	17	5	12	0"

16. It is further pertinent to take note of that a Minutes of a meeting of the Committee dealing with matters relating to Officers and Staff of the High Court, Principal Seat and the Outlying Benches including the District Courts of all States under the jurisdiction of the Gauhati High Court was enclosed. Relevant herein to mention that the said Minutes were undated but from a perusal of the said Minutes itself, would show that the said decision so taken in the Minutes was after 09.10.2024 and prior to the recruitment Notification dated 09.12.2024.

STAND OF THE PRIVATE RESPONDENTS IN WP(C) NO. 2325/2025

17. It is relevant to take note of that the respondent Nos. 4 to 15 have filed one affidavit-in-opposition. All these respondents are Stenographer Grade-III working at various District Establishments throughout the State of Assam. The stand so taken is in conformity with the stand taken by the respondent Nos. 1 and 2. The respondent Nos. 16, 18 and 20 are all Stenographer Grade-II working in various Establishments of the District Judiciary of Assam. The respondent



Nos. 16, 18 and 20 were placed at serial Nos. 3, 6 and 16 respectively of the rank-wise mark sheet, having secured 48.48 marks, 47.76 marks and 46.78 marks respectively. The respondent No. 19 has also separately filed an affidavit-in-opposition. The respondent No. 19 is a Stenographer Grade-II and is presently attached with the learned Civil Judge (Senior Division) in the establishment of the District and Sessions Judge, Kokrajhar. She was placed at serial No. 8 with total of 47.58 marks out of 50.

**SUBMISSIONS MADE BY THE LEARNED COUNSELS
APPEARING ON BEHALF OF THE PARTIES**

18. Mr. P.K. Roychoudhury, the learned counsel appearing on behalf of the petitioners in WP(C) No. 2325/2025 submitted that the Shetty Commission's recommendation having been accepted by the Supreme Court and there being specific directions to the High Courts to implement the same, it was binding upon the Gauhati High Court on the Administrative side, to confirm with the Shetty Commission recommendation, which stipulated that for the Stenographer Grade-I, the feeder category is by promotion from Stenographer Grade-II. He submitted that this aspect of one-time measure cannot be allowed to be applied in perpetually, more so, when against 17 vacancies, there were already 32 candidates available from Stenographer Grade-II. He submitted that the undated resolution adopted by the Gauhati High



Court on the Administrative side appears to have been made mechanically without proper application of mind inasmuch as there was no quantifiable data taken that there were insufficient Stenographer Grade-II who could be promoted to the post of Stenographer Grade-I.

19. The learned counsel further referred to the recruitment Notification dated 09.12.2024 which stipulated the cutoff mark to be eligible is 30 and above, out of 50, meaning thereby, that if there are Stenographer Grade-II candidates who secures 30 and above marks out of 50, the said candidates would be eligible for promotion. He therefore submitted that the Stenographer Grade-III would not come into the picture till there are Stenographer Grade-II who are already eligible having obtained more than 30 marks. The learned counsel further drew the attention of this Court to the rank-wise mark sheet enclosed as Annexure-6 to WP(C) No. 2325/2025 and submitted that out of 118 candidates who had participated in the said selection process, amongst the top 50, there were 17 candidates who were Stenographer Grade-II and the 17th candidate of Stenographer Grade-II is at serial No. 50 and had obtained 44.19 marks out of 50 and therefore, all these candidates were eligible to be promoted applying the Shetty Commission's recommendation. He therefore submitted that what the Gauhati High Court on the Administrative side have



done is a complete negation to the Shetty Commission's recommendation and the every time adoption as a one time measure to bypass the Shetty Commission recommendation, since 2013 till date amounts to nullifying the Shetty Commission's recommendation and is contrary to the orders passed by the Supreme Court. The learned counsel submitted that it can be appreciated that once or twice the recommendation can be bypassed for Administrative exigency, but every time doing so is willful disregard to the orders passed by the Supreme Court. The learned counsel further submitted that the Gauhati High Court on the Administrative side can direct that filling up of the Stenographer Grade-II and thereupon go for selection to Stenographer Grade-I, which for reasons best known is not adopted. The learned counsel submitted that the impugned Notification dated 22.04.2025 is required to be interfered with and a fresh select list has to be prepared on the basis of the rank-wise mark sheet amongst the Stenographer Grade-II in the speed test held on 02.03.2025, and the 17 vacancies be filled up amongst those Stenographers Grade-II who have already become eligible having secured more than 30 or more marks out of 50.

20. Mr. M.A. Sheikh, the learned counsel appearing on behalf of the writ petitioner in WP(C) No. 2410/2025 submitted that a reading of the recruitment Notification dated 09.12.2024 would clearly show that the eligibility criteria set out is that the candidate has to have 5 years



of service as Stenographer Grade-II or Grade-III in the District Judiciary of Assam. The learned counsel therefore submitted that the use of the word "or" in between Stenographer Grade-II and Grade-III would mean that the candidate has to be either having 5 years of service as Stenographer Grade-II or 5 years of service as Stenographer Grade-III. He therefore submitted that the respondent Nos. 3, 4, 5 and 6 in WP(C) No. 2410/2025 though cumulatively have 5 years of service as Stenographer Grade-II and Grade-III, but they do not have 5 years of service as Grade-II or 5 years of service as Grade-III and as such they were not eligible.

21. Mr. L. Mohan, the learned counsel appearing on behalf of the petitioners in WP(C) No. 3408/2025 submitted that the petitioners herein have already completed 13 years of service as Stenographer Grade-III and therefore as they are senior, they should be promoted to the post of Stenographer Grade-I as they have already become eligible having secured more than 30 marks out of 50.

22. Per contra Mr. H.K. Das, the learned Standing Counsel appearing on behalf of the Gauhati High Court submitted that the writ petitioners in WP(C) No. 2325/2025 cannot assail the recruitment Notification dated 09.12.2024 having participated in the said selection process and after having not secured a meritorious position. He further submitted that in an earlier round of litigation filed by the



petitioner No. 1 along with two others, which is WP(C) No. 3121/2023, this Court had declined to interfere as there was no challenge to the resolution by which a different criteria is adopted from the Shetty Commission's report as a one-time measure. He therefore submitted that in the present proceedings also, there is no specific challenge to the said resolutions.

23. On merits, the learned Standing Counsel submitted that pursuant to the resolution adopted on 22.02.2018 whereby the eligibility criteria for taking part in the promotion process for Grade-I was further relaxed to 5 years in service experience as Stenographer in any Grade, was also applied in the instant selection process on the ground that the selections which were carried out in the previous 4 years, i.e. in 2018, 2019, 2020 and 2023, in spite of relaxation being granted of 5 years from both the Grades, there were no sufficient candidates who could be held eligible to be promoted to the post of Stenographer Grade-I and resulting in unfilled vacancies as would be seen from the chart enclosed as Annexure-R/1 to the affidavit-in-opposition filed by the respondent Nos. 1 and 2. He further submitted that what is being sought to be done by the respondents cannot be said to be illegal or arbitrary, taking into account that the meritorious 17 candidates who have secured the highest marks have been selected based on merit and therefore the question of interference does not arise. He further submitted that the petitioners merely being



Stenographer Grade-II cannot have a right to seek promotion. Their right is only limited to consideration for promotion which has been duly granted to them.

24. Mr. H.K. Das, the learned Standing Counsel has further submitted, that the submission so made by the writ petitioner in WP(C) No. 2410/2025 is on a complete misreading of the eligibility conditions inasmuch as the basis on which the eligibility conditions have been stipulated is on account of the decision taken by the committee in the meeting dated 22.02.2018, which categorically stipulated that the eligibility criteria for taking part in the promotion process from Grade-I was required to be further relaxed to 5 years in service as Stenographer in any Grade as a one-time measure so as to tide over the current situation. He therefore submitted that on the basis thereof, the said eligibility criteria was set out and therefore the 5 years of service as required has to be taken cumulatively as from the Stenographer Grade-II or Grade-III in the District Judiciary of Assam. He therefore submitted that the writ petition being WP(C) No. 2410/2025 is completely meritless and ought to be dismissed.

25. Mr. H.K. Das, the learned Standing Counsel has further submitted that the case set out by the writ petitioners in WP(C) No. 3408/2025 is completely misconceived and not tenable, taking into account that the selection has to be made on the basis of merit and



not on the ground of seniority and that too in Stenographer Grade-III. He further referred to that even if a candidate possesses 15 years of service, he may not be promoted as Stenographer Grade-I if the candidate does not secure a merit position in the test to be conducted for selection. He therefore submitted that the case of the petitioners in WP(C) No. 3408/2025 is completely misconceived and accordingly the writ petition is required to be dismissed.

26. Mr. S. Das, the learned counsel appearing on behalf of the private respondents made similar submissions as made by Mr. H.K. Das, the learned Standing Counsel for the Gauhati High Court. He further submitted that as the respondent Nos. 4 to 20 having been found eligible and having met the eligibility criteria, the question of interference with the impugned select list dated 22.04.2025 ought not to be made. Further to that, the learned counsel submitted that as regards the respondent Nos. 16 to 20, the petitioners cannot have any say in their selection inasmuch as they are Grade-II stenographers and they are more meritorious than the petitioners.

COURT'S QUERY

27. During the course of the arguments, this Court while taking into account the stand of the respondent Nos. 1 and 2 in the affidavit-in-opposition and more particularly, Annexure R/1 enquired with Mr. H.K. Das, the learned Standing Counsel appearing on behalf of the Gauhati



High Court, as to why, the posts remained unfilled in the selections held in the year 2018, 2019, 2020 and 2023. It is also relevant to observe that in the year 2018, though the vacancies were 38 only 22 candidates applied, in the year 2019 the vacancy was 34 but only 15 candidates applied and in the year 2020, total vacancy was 36, of which only 34 applied.

28. Mr. H.K. Das, the learned Standing Counsel for the Gauhati High Court submitted that the post remained unfilled on account of the fact that the candidates other than those selected who participated in the years 2018, 2019, 2020 and 2023 could not obtain the minimum qualifying mark of 30 marks out of 50.

ANALYSIS AND DETERMINATION

29. Before dealing with the merits, this Court finds it relevant to take note of the preliminary objections taken on the maintainability of the writ petition i.e. WP(C) 2325/2025. The first preliminary objection so taken is that the challenge to the recruitment Notification dated 09.12.2024 cannot be permitted to be made on the ground that the petitioners in WP(C) No. 2325/2025 have already participated pursuant to the said recruitment advertisement. It is relevant to take note of that the case of the petitioners in WP(C) No. 2325/2025 hinges on two facets. First, on the illegality in allowing the Stenographer Grade-III to participate in the selection proceeding



relating to promotion to Stenographer Grade-I as it was contrary to the Shetty Commission's recommendation. The second aspect is even assuming for argument's sake, the Stenographer Grade-III is permitted to participate, they cannot steal a march ahead of the Stenographer Grade-II, if the Stenographer Grade-II are eligible as per the speed test.

30. This Court finds it pertinent to observe that if the petitioners in WP(C) No. 2325/2025 have not participated in the said selection process, they would not have the *locus standi* to challenge the selection of Stenographer Grade-III on promotion to Stenographer Grade-I. This Court further finds it pertinent to take note of the judgment of the Supreme Court in the case of **DR (Major) Meeta Sahai Vs. State of Bihar & Others** reported in **(2019) 20 SCC 17** wherein at paragraph No. 17, the Supreme Court observed that in a case where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the said actions cannot be condoned merely because the candidates had partaken in it. Paragraph No. 17 of the said judgment, further stipulates that if the candidate would have not participated in the said selection process, the candidate may not have the *locus standi* to assail the incurable illegality or derogation of the provisions of the Constitution of India. Paragraph No. 17 of the said judgment being relevant is reproduced herein under:



“17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.”

31. In view of the law declared by the Supreme Court as quoted above, the petitioners in WP(C) No. 2325/2025 in the opinion of this Court cannot be non-suited. Additionally, the second submission so made by the petitioners would continue to remain, even if the eligibility criteria so mentioned in the recruitment Notification dated 09.12.2024 continues to hold the field.

32. The second preliminary objection so taken is that there is no challenge to the resolutions or decisions on the basis of which the recruitment Notification dated 09.12.2024 was made. The said preliminary objection in the opinion of this Court does not arise, more particularly, taking into account the relief No. (A) of WP(C) No. 2325/2025 whereby the petitioners have sought for setting aside and/or quashing the impugned Minutes of the meeting of the Committee for Centralized Recruitment of Officers and Staff of the Subordinate Judiciary and all Benches of the High Court regarding relaxation of the eligibility criteria for promotion to Stenographer



Grade-I for the Subordinate Courts of Assam, basing on which the Notification dated 09.12.2024 was issued.

33. In the backdrop of the above, let this Court now deal with the merits.

34. In the year 1989, the All India Judges Association and its working President filed a writ petition under Article 32 of the Constitution of India seeking various reliefs for members of the District Judiciary, focusing on uniformity in service conditions. On 13.11.1991, the said writ petition was disposed of with directions issued by the Supreme Court to the States and Union Territories to separately examine and review the pay structure. The decision of the Supreme Court rendered on 13.11.1991 is reported as ***All India Judges Association (1) Vs. Union of India & Others*** in ***(1992) 1 SCC 119***. Subsequent thereto, the Central Government as well as the few State Governments filed review petitions before the Supreme Court. This led to another judgment delivered on 24.08.1993 and titled as ***All India Judges Association (2) Vs. Union of India and Others*** reported in ***(1993) 4 SCC 288***. By this judgment rendered on 24.08.1993, some of the reliefs so granted in the original judgment dated 13.11.1991 were modified and certain directions were passed. Basing upon such directions, the Union of India appointed the first National Judicial Pay Commission on 21.03.1996 under the chairmanship of Justice K.J.

Shetty. The Justice Shetty Commission thereupon submitted various reports from time to time. Relevant, however, is for the purpose of the instant case is the recommendation so made in respect to the Stenographer. The specific recommendations in the Justice Shetty Commission's report for the three grades of Stenographers for three levels of the Courts with pay scale read as under:

<u>“Grades</u>	<u>Mode</u> <u>of recruitment</u>	<u>Pay Scale</u>
(i) <i>Stenographer Grade-III</i> <i>Court of Civil Judge (Jr. Div.)</i> <i>(Existing Stenographer Grade-III)</i>	<i>Direct</i>	<i>Rs.3850-7350</i> <i>(Existing pay scale)</i>
(ii) <i>Stenographer Grade-II</i> <i>Court of the Civil Judge (Sr. Div)</i>	<i>50% by promotion</i> <i>from Stenographer</i> <i>Grade-III and 50%</i> <i>by direct</i> <i>recruitment</i>	<i>Rs.4120-9725</i> <i>(Sl.No.16 of the</i> <i>General Pay Scale)</i>
(iii) <i>Stenographer Grade-I</i> <i>Court of District & Sessions</i> <i>Judge</i>	<i>By promotion from</i> <i>Stenographer Gr-II</i>	<i>Rs.5725-11825</i> <i>(Existing pay Scale)”</i>

35. From the above recommendations, it would be seen that the mode of recruitment for Stenographer Grade-III is direct recruitment. In respect to Stenographer Grade-II, the mode of recruitment is 50% by promotion from Stenographer Grade-III and 50% by direct



recruitment. In respect to Stenographer Grade-I, the mode of recruitment is only by way of promotion from Stenographer Grade-II. It is relevant to take note of that the Supreme Court in its order dated 15.07.2008 directed that the recommendations be implemented w.e.f. 01.04.2003. The Supreme Court in the order dated 07.10.2009 passed the various directions. The relevant portion of the said order is reproduced herein under:

“We are told that so far all the states/Uts have not implemented the recommendations fully. Some of the States have implemented the recommendations but had given effect to the date later than 1-4-2003. Still some of the grievances of various officers are subsisting. In view of these circumstances, we direct that hereafter these matters be considered by the respective High Court of the States/Uts. We direct that:

(i) The High Courts, on judicial/ administrative side, will ensure implementation of the recommendations of the Shetty Commission within a reasonable period of one year. The High Court shall permit writ petitions or applications that may be filed by the individual or staff association representing the various members of the staff.

(ii) The High courts shall also see that the recommendations are implemented w.e.f. 1-4-2003.

(iii) There shall be benefit of one advance increment on the existing pay-scale instead of initial pay scale. In many of the States, the same benefit has not been given to the members of the staff, the High Court should also see that these recommendations are implemented.

(iv) In some of the States based on various other pay commissions Reports, benefits had been given to the members of the staff, these benefits, if any, given shall be in addition to the recommendations given by the Shetty



Commission. In any case if the members of the staff association/ subordinate staff getting higher benefits under any of the recommendations of the pay commission/Government Orders, they shall be permitted to avail those benefits."

36. It is relevant to take note of that the Gauhati High Court on the Administrative side and, more particularly, the Committee for consideration of the Shetty Commission's recommendation of revision of pay scale, etc. of the Subordinate Courts Staff of Assam and the Committee for Centralized Recruitment of Officers and Staff of Subordinate Judiciary and all Benches of the High Court had adopted a resolution on 06.03.2013. The relevant portion of the said resolution is reproduced herein under:

".....(a) For promotion of the existing Stenographers of Subordinate Judiciary of Assam, the Committee recommends the following criteria as one time measure pending framing of "Subordinate Courts Establishment Rules of Assam"

(i) Irrespective of any grade and educational qualification they possess, existing stenographers who have completed 15 (fifteen) years of service, be promoted as Grade-I Stenographers, subject to such criteria as regards speed test etc. which the High court may fix on availability of vacancy(s).

(ii) Irrespective of their educational qualification they possess, existing Grade-III Stenographers, who have completed 5 (five) years of service, be promoted as Grade-II Stenographers, subject to such criteria as regards speed test etc. which the High Court may fix against 50% of the sanctioned strength on availability of vacancy(s).



(iii) For the aforesaid promotions/appointments, eligibility criteria i.e., Speed test etc. to be determined by the High court"

37. Subsequent thereto, the above mentioned Joint Committees, in their meeting dated 20.07.2013 adopted another resolution. The relevant portion of the said resolution is reproduced herein below:

".....For Promotion of existing stenographers, the Recruitment Cell may follow the relaxation criteria adopted in the meeting dated 06-03-2013....."

It was further resolved as follows:

"The Joint Committee perused the report of the Registry regarding recruitment of Stenographers of all grades of Subordinate Judiciary. The recommendation of the Shetty Commission regarding mode of recruitment of Stenographers in all grades was accepted by the Hon'ble Supreme Court by a judicial order. Thus it is imperative that the stenographers of different grades be recruited in the following manner:-"

(i) Stenographer Grade-III, by Direct Recruitment.

(ii) Stenographer grade-II, 50% by promotion from Grade-III and 50% by Direct Recruitment.

(iii) Stenographer Grade-I, by promotion from Stenographer Grade-II."

38. From the above resolution adopted in the Minutes of the meeting dated 20.07.2013, the Joint Committees of the Gauhati High Court observed that it was imperative that the Stenographer Grade-I is filled by promotion from Stenographer Grade-II. In another meeting, held of the Joint Committees on 10.11.2016, the above two quoted



resolutions were duly taken into consideration by the Joint Committees and taking into account that after conducting the promotional examinations on earlier occasions substantial number of Grade-I and Grade-II posts of Stenographer in District Courts could not be filled up owing to non-availability of eligible candidates and further on account of creation of new posts, adopted another resolution. The relevant part of the resolution dated 10.11.2016 is reproduced herein under:

*“It is pertinent to mention here that even after conducting the promotional examination on earlier occasion, substantial number of **Grade-I and of Grade-II posts of Stenographer** in the districts courts could not be filled up owing to non-availability of eligible candidates.*

In view of creation of new posts and non-availability of sufficient numbers of stenographers meeting the above criteria, till date, there are several vacant posts of Stenographer Grade-I and Stenographer Grade-II lying in the district courts. However, the vacancy position of Stenographer Grade-II will vary on completion of promotion to Grade-I. It may be mentioned that the posts of Stenographer Grade-I and 50% of the total sanctioned posts of Grade-II in an establishment are promotional posts. Moreover, in some establishments, there are no feeder cadre of stenographers who could be promoted despite having sanctioned posts of Stenographer Grade-I and Grade-II. Further, in some establishments there are no sanctioned posts in the higher cadre though eligible Stenographers are available.

Since a considerable number of promotional posts in grade-I and Grade-II Stenographers in the subordinate courts of Assam remained vacant even after completing the last promotional process and as the Rules have not yet been notified, hence, in order to fill up the posts in Grade-I



through promotion, requirement of qualifying period of service of 15 (fifteen) years as indicated in the resolution dated 06.03.2013, which was subsequently approved by the Joint Committee of both the aforesaid committees vide resolution dated 20.07.2013, may be relaxed to 10(ten) years keeping the other eligibility criteria intact. For promotion to Stenographer Grade-II existing requirement of qualifying period of service of 5 (five) years may remain same."

39. From the above quoted portion, it would be seen that in order to fill up the post in Stenographer Grade-I through promotion, the qualifying period of service of 15 years as indicated in the resolution of 06.03.2013 which was subsequently approved by the Joint Committees vide resolution dated 20.07.2013 was relaxed to 10 years, however, keeping the other eligibility criteria intact. The other eligibility criteria in the opinion of this Court would also include the eligibility criteria which was further resolved in the resolution of the Joint Committees held on 20.07.2013, meaning thereby, that a Stenographer Grade-I is to be filled up by promotion from Stenographer Grade-II. It would also be seen from the above quoted resolution, the promotion to Stenographer Grade-II would require 5 years of qualifying service.

40. From the records, it is also seen that in the affidavit-in-opposition filed by the Registrar General of the Gauhati High Court, though he had mentioned in his affidavit-in-opposition that the resolution dated 22.02.2018 was enclosed as Annexure R/2, but the



said resolution was not enclosed to the said affidavit-in-opposition rather an undated resolution which can be presumed to be after 09.10.2024 but prior to 09.12.2024 was enclosed. Be that as it may, in the said undated resolution, there is a reference made to the resolution adopted in the Minutes of the meeting held on 22.02.2018 which being relevant is reproduced herein under:

“In view of non-availability of adequate number of stenographers having 10 years of service experience and considering the fact that there is huge number of vacancies in the post of Stenographer Grade-I (all being promotional posts), the Committee is of the opinion that the eligibility criteria for taking part in the promotion process for Grade-I be further relaxed to 5 years in service experience as Stenographer in any grade as an one time measure so as to tide over the current situation.”

41. From the above quoted resolution dated 22.02.2018, it would be seen that the 10 years of service experience in any grade to be eligible to be promoted to Stenographer Grade-I was further reduced to 5 years in service experience as Stenographer in any Grade as a one-time measure so as to tide over the current situation. It is however surprising to take note of that based upon this decision taken in the meeting dated 22.02.2018, the Gauhati High Court on the Administrative side applied the said decision which was only as a one-time measure for the subsequent years as would be apparent from Annexure- R/1, i.e. for the year 2018, 2019, 2020, 2023 as well as 2024 (the present selection). This Court had perused Annexure-R/2 to



the affidavit-in-opposition filed by the respondent Nos. 1 and 2. The said decision so taken by the Hon'ble Committee dealing with matters relating to Officers and Staff of the High Court (Principal Seat and Outlying Benches) including the District Courts of all States under the jurisdiction of the Gauhati High Court (hereinafter referred to as, "the Hon'ble Committee") do not appear that the Registry of the Gauhati High Court had placed any quantifiable data as regards how many Stenographer Grade-II were there in the Ministerial Services of the District Judiciary against the post to be advertised. There also appears to be no materials placed whether Stenographer Grade-III can be promoted to the Stenographer Grade-II so that the mandate of the recommendation of the Shetty Commission can be adhered to. It appears that the Hon'ble Committee routinely applied the Resolution adopted earlier which was specifically mentioned to be a one time measure. It may not be out of place to observe that one time measure refers to an action or policy that is to be implemented or applied once. Bypassing the Shetty Commission's recommendation each time, in the opinion of this Court, the same cannot be said to be a one time measure. It takes the flavour of a recurring measure.

42. This Court now finds it relevant to take note of that the statutory rules insofar as promotion to the post of Stenographer Grade-I is yet to be framed by the Government of Assam. In that context, it is



pertinent to take note of the judgment of the Supreme Court in the case of ***Abhimeet Sinha & Others Vs. High Court of Judicature At Patna & Others*** reported in ***(2024) 7 SCC 262*** wherein the Supreme Court after taking into account the various judgments deduced the following conclusions at Paragraph No. 59 which is reproduced herein under:

“59. With the above pronouncements on the interplay between the Shetty Commission recommendations and the prevalent Rules, the following logical deduction can be laid down:

(i) In case of inconsistency between the recommendations and the Rules, primacy should be given to the existing statutory rules.

(ii) In the absence of existing Rules, the High Court should follow the directions of this Court.”

43. From the above quoted paragraph, it would be seen that in absence of existing rules, the Gauhati High Court is obliged to follow the directions of the Supreme Court meaning thereby the Gauhati High Court was required to follow the mandate as stipulated by the Shetty Commission, i.e., for filling up the vacancy of Stenographer Grade-I, the candidates from Stenographer Grade-II were required to be considered alone. The undated resolution of the Hon'ble Committee enclosed as Annexure-R/2 is absolutely silent, as to why, resolution dated 22.02.2018 which was a one time measure be again applied for the promotion to the post of Stenographer Grade-I. The



materials on record as stated herein above as well as analyzed hereinafter would show that the undated resolution (Annexure-R/2) was not in consonance with the directions of the Supreme Court.

44. Let this Court now take note of the recruitment Notification dated 09.12.2024. From the said Notification, it would be seen that the eligibility criteria as on 20.12.2024 is that the candidates must have completed 5 years of service as Stenographer Grade-II or Grade-III in the District Judiciary of Assam. The Notification further mentions that for selecting the candidates, a speed test of 50 marks would be held and a candidate securing 30 or more marks out of 50 would be eligible for promotion to Stenographer Grade-I. In the said backdrop, it would be seen that out of 118 candidates who have participated in the speed test, 108 candidates belonging to Stenographer Grade-II and Grade-III were eligible, having secured more than 30 marks out of 50. It would also be seen that the candidates at serial Nos. 3, 4, 6, 8, 16, 19, 23, 29, 32, 33, 39, 41, 43, 45, 46, 49 and 50 of the rank-wise merit list (Annexure-6 to WP(C) No. 2325/2025) were Stenographer Grade-II meaning thereby that there was no dearth of eligible candidates from Stenographer Grade-II who could be considered for promotion. Therefore, the one-time measure which had been adopted frequently since 2013 onwards could not have been applied in the present case, more so, when there were eligible



candidates in Stenographer Grade-II who could be promoted to Stenographer Grade-I.

45. This Court further takes note of the stand so taken by the respondent Nos. 1 and 2 in the affidavit-in-opposition wherein it was mentioned that the cut off mark was 46.78, but it is not understandable, as to how, 46.78 would be the cut off mark inasmuch as to be eligible for considered for promotion was 30 marks and above out of 50. The Stenographer Grade-III in the opinion of this Court could not have been brought for consideration as the same would negate the recommendation of the Shetty Commission as well as the orders passed by the Supreme Court directing implementation of the Shetty Commission which was binding upon the Gauhati High Court.

46. Considering the above, this Court therefore disposes of the instant writ petitions with the following observations and directions:

- (i) The impugned Notification dated 22.04.2025 stands set aside and quashed on the ground that in spite of availability of eligible Stenographer Grade-II, candidates who were Stenographers Grade-III were selected to the post of Stenographer Grade-I.
- (ii) Any order(s) of Appointment issued on the basis of the



Notification dated 22.04.2025 is/are set aside and quashed.

- (iii) This Court directs the respondent Nos. 1 and 2 in WP(C) No. 2325/2025 to prepare a fresh select list, on the basis of the rank-wise mark sheet (Annexure-6 to WP(C) No. 2325/2025) amongst the Stenographers Grade-II who appeared in the speed test held on 02.03.2025 in connection with promotion to Stenographer Grade-I in the District Courts of Assam. The select list so directed to be prepared shall be strictly on merit. The said select list shall not contain names of those incumbents who are Stenographers Grade-III.
- (iv) On the basis of the said select list so directed to be prepared, consequential promotion orders may be issued by the concerned Authority strictly on the basis of merit amongst the Stenographer Grade-II.
- (v) The petitioners in WP(C) No. 2410/2025 and WP(C) No. 3408/2025 being Stenographers Grade-III have no right to be considered for promotion to the post of Stenographer Grade-I in view of there being already eligible candidates from Stenographer Grade-II, who can



be considered for promotion to the post of Stenographer Grade-I.

(vi) No costs. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant