

GAHC010010942022



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

Case No. : WP(C)/472/2022

SITHI SUKLABAIDYA @ SITHI RANI SUKLABAIDYA
D/O LATE MONINDRA SUKLABOIDYA, VILLAGE APPIN PART II, PO APPIN,
PS KATLICHERA, DIST HAILAKANDI, ASSAM 788161

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION DEPARTMENT (ELEMENTARY) DISPUR,
GUWAHATI 06

2: THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM KAHILIPARA
GUWAHATI 19

3: THE STATE LEVEL COMMITTEE (SLC) FOR COMPASSIONATE
APPOINTMENT

REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI 06

4: THE DISTRICT LEVEL COMMITTEE (DLC)
HAILAKANDI FOR COMPASSIONATE APPOINTMENT
REPRESENTED BY THE DEPUTY COMMISSIONER
HAILAKANDI
ASSAM
788151

5: THE DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI
ASSAM 78815

Advocate for the Petitioner : MR. S B LASKAR

Advocate for the Respondent : GA, ASSAM

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

11.12.2023

Heard Mr. H.A. Laskar, learned counsel for the petitioner. Also heard Mr. B. Deuri, learned counsel for the respondent Nos.3 and 4.

2. The grievance raised by the petitioner in the present proceeding is that her application for appointment on compassionate ground submitted by her in pursuance to death of her father late Monindra Suklaboidya, who died-in-harness on 31.10.2007, while serving as Assistant Teacher in 708 Abdullapur L.P. School, under Lala Education Block in the district of Hailakandi, was rejected on the ground that she did not have the requisite percentage in Higher Secondary level, which qualification is mandatory for direct recruitment to the post of Assistant Teacher in primary school of the State. The petitioner has laid challenge to the order dated 11.10.2021 issued by the Deputy Commissioner, Hailakandi, whereby her application was rejected on the above ground. The petitioner had earlier approached this Court by way of instituting WP(C) 4571/2019 along with other similarly situated persons raising a grievance with regard to non-consideration of their cases by the jurisdictional District Level Committee for appointment on compassionate ground. This Court vide order dated 15.07.2019 disposed of the said writ petition directing the District Level Committee to take on record the application of the petitioner and consider the

same. It is in pursuant to the said order that the case of the petitioner was considered and the order dated 11.10.2021 came to be passed.

3. I have heard the learned counsel appearing for the parties and perused the material available on record. The only ground on which the petitioner's case for compassionate appointment was rejected was that she was not qualified for the post of Assistant Teacher in primary school, inasmuch as, she had only 37.33% marks in Higher Secondary examination against the mandatory requirement of 45% marks. The DLC while rejecting her case on the said ground, lost sight of the fact that the application of the petitioner was for appointment on compassionate ground and the said application cannot be construed to be an application for appointment against a particular post. No right is vested in any candidate applying for compassionate appointment to claim for being considered against a particular post. The DLC having found that the petitioner's claim for compassionate appointment merited consideration, ought to have considered her case against a post commensurating to her educational qualification. The said exercise does not seem to have been undertaken in the present case and the petitioner's case was rejected only on the ground mentioned in the impugned order dated 11.10.2021.

4. In view of the said position, Mr. B. Deuri, learned counsel for the respondent Nos.3 and 4 submits that this Court may remand back the matter to the concerned jurisdictional District Level Committee for a fresh consideration of the petitioner's case against any post commensurating to her educational qualification.

5. In view of the above, this writ petition is disposed of requiring the District Elementary Education Officer, Hailakandi to replace the application of the petitioner for appointment on compassionate ground before the jurisdictional

District Level Committee in its next meeting. The DLC shall consider the case of the petitioner against any post commensurating to her educational qualification and before making such consideration, the committee shall satisfy itself about the availability of vacancies against the quota prescribed for compassionate appointment and also evaluate the other requisite particulars that are required to be considered, including the financial position of the petitioner and her family. The said exercise be carried out by the DLC in the next meeting to be convened after submission of a certified copy of this order by the petitioner. Further proceeding shall depend on the outcome of the recommendation that may be made on due consideration of the case of the petitioner by the DLC.

In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant