

GAHC010017882023



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

Case No. : WP(C)/583/2023

ABDUR RAHIM CHOUDHURY
S/O- LT. ABDUL SATTAR CHOUDHURY, (BROTHER OF LATE MUZIBUR
RAHMAN CHOUDHURY, DIED IN HARNESS ON 09.11.2015 AS
CONSTABLE AT 6TH A.P. BATTALION, KATHAL, CACHAR), R/O- VILL-
BHAIRABNAGAR, P.O. KRISHNAPUR, P.S. SILCHAR, DIST.- CACHAR,
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HOME AND
POLITICAL DEPTT., DISPUR, GHY-06

2: THE STATE LEVEL COMMITTEE (FOR COMPASSIONATE APPOINTMENT)
TO BE REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI- 788006

3: THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY-07

4: THE DY. COMMISSIONER CUM CHAIRMAN
OF DISTRICT LEVEL COMMITTEE (DLC)
CACHAR
P.O. SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788001

5:THE SUPERINTENDENT OF POLICE
CACHAR
P.O. SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788001

6:THE COMMANDANT
6TH A.P. BATTALION
KATHAL
DIST.- CACHAR
ASSAM
PIN- 78800

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 02.08.2023

Heard Mr. B. Purkayastha, learned counsel for the petitioner. Also heard Ms. S. Baruah, learned Govt. Advocate appearing for the respondents.

2. The rejection of the candidature of the petitioner for appointment on compassionate ground by the 14th SLC pertaining to compassionate appointment to Home and Political Department held on 10.02.2022 is assailed in this writ petition filed under Article 226 of the Constitution of India.

3. The case of the petitioner is that his brother, namely, Late Muzibur Rahman Choudhury, who was working as Constable in 6th A.P.Bn. had died in harness on 09.11.2015, leaving behind the petitioner and his mother as only legal representatives. The petitioner had applied for appointment on compassionate ground by an application, which was considered by the DLC in its

meeting held on 06.07.2020, recommending the petitioner for appointment in Grade-IV post. The application was then taken up by the SLC in its 14th meeting held on 10.02.2022. However, the candidature of the petitioner was rejected on the ground of being "under-qualified" by holding that the applicant is found to have passed Class-VII, whereas the minimum educational qualification required for the post of Grade-IV was Class-VIII passed.

4. The learned counsel for the petitioner has submitted that the petitioner was otherwise Class-VIII passed, but due to bonafide mistake on part of the petitioner, he had annexed document relating to Class-VII pass. Accordingly, it is submitted that due to inadvertent mistake on part of the petitioner to enclose the Class-VIII pass certificate, he has been greatly prejudiced and therefore, one opportunity be granted to the petitioner to place his Class-VIII pass certificate, which should be considered by the concerned SLC.

5. In this regard, the learned counsel for the petitioner has referred to the representation of the petitioner dated 17.12.2022 submitted before the Commandant, 6th A.P.Bn., by which Class-VIII pass certificate was produced before the said authority.

6. Notwithstanding that this is a case where the petitioner has committed a mistake of not producing the Class-VIII pass certificate before the authorities along with the application filed for appointment on compassionate ground, the fact remains that the application was accompanied with a Class-VII pass certificate, which was considered by both the DLC as well as the SLC. Once the candidature is rejected on the ground which was otherwise valid, to allow the petitioner to rectify the mistake would create a judicial precedence by which

any person who has given wrong information in the application would be allowed to rectify the incorrect statement made in the application with better or correct particulars.

7. In the present case in hand, as many as 174 proposals were received by the SLC for appointment on compassionate ground. There is no material available before this Court that after exhausting of the recommendations made by the SLC in its meeting held on 10.02.2022, other vacancies are also available for appointment on compassionate ground.

8. Be that as it may, as the petitioner has given incorrect particulars along with the application, the Court finds that insofar as the decision of the SLC is concerned, cannot be said to be bad in law. The Court is not inclined to exercise its inherent jurisdiction to permit the petitioner to rectify the mistake and file afresh application as a continuation of the previous application. The brother of the petitioner having died on 09.11.2015, if a fresh application is allowed to entertained, that would not be in consonance with the scheme of compassionate appointment in terms of OM dated 01.06.2015. Therefore, the Court is disinclined to entertain this writ petition and accordingly, this writ petition stands dismissed.

JUDGE

Comparing Assistant