

GAHC010022322023



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

Case No. : WP(C)/616/2023

TONKESWAR DAS
S/O- LT. JUGEN CH. DAS, VILL- NA- DHALPURIA, P.O. BARMANIPUR, DIST.-
MORIGAON, ASSAM, PIN- 782142

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DEPTT., DISPUR, GHY-6

2:THE DIRECTOR
ELEMENTARY EDUCATION DEPTT.
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON
P.O.
P.S. AND DIST.- NAGAON
ASSAM

4:THE CHAIRMAN
DISTRICT LEVEL COMMITTEE (FOR COMPASSIONATE APPOINTMENT)
NAGAON REP. BY THE DY. COMMISSIONER
NAGAON P.O. AND DIST.- NAGAON
ASSA

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

11-04-2023

Heard Mr. Z. Hammad, learned counsel for the petitioner and Mr. P.K.Borah, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 3. Also heard Mr. G. Bokolial, learned Government Advocate, Assam for the respondent No. 4.

Father of the petitioner, namely, Jugen Chandra Das was serving as a Grade-IV (attached Office Peon) in the establishment of the Block Elementary Education Officer, Juria Education Block, District-Nagaon, who died-in-harness on 27.04.2009 leaving behind his wife, i.e. the mother of the petitioner and one son, i.e., the petitioner himself and one daughter.

The petitioner on 21.05.2010 submitted an application before the authority concerned for his compassionate appointment in Grade-IV post under the die-in-harness scheme of the State stating that he studied upto Class-IX.

Though the District Level Committee (DLC) for compassionate appointment, Nagaon in its meeting held on 23.04.2013 considered the case of the petitioner for his compassionate appointment in Grade-IV post, but due to want of vacancy, his case for compassionate appointment could not be considered.

As the respondent authorities, more particularly, the DLC for compassionate appointment, Nagaon did not consider the case of the petitioner for the second time, he has filed this writ petition on 01.02.2023 praying amongst others for a direction to the respondent authorities to place the case of the petitioner for his compassionate appointment before the next meeting of the DLC, Nagaon as he is entitled for one more consideration for appointment on compassionate ground as per the Government Policy and the decisions passed in similar cases.

It is about 14 years, the father of the petitioner expired and the case of the petitioner for his compassionate appointment under the die-in-harness scheme of the State could not be considered by the DLC, Nagaon in April, 2013 due to want of vacancy.

Regarding compassionate appointment under the die-in-harness scheme of the State, the law is

well settled that the Compassionate Appointment is given as an immediate measure only to get over the death of the bread earner at that point of time and there cannot be any vested right on such appointment except that such consideration can only be done as per prevailing policy. After passage of long time, the sense of immediacy gets lost. The very raison d'être for giving compassionate appointment or compassionate benefit is lost once the immediacy has died down. Once the long time passed by, the compassionate element stands extinguished. A family who could survive for long years would not be entitled to any compassionate benefit since compassionate benefit is not a largesse nor it is a rule in the employment.

However, it is to be noted herein that the Court have settled the law that the incumbents submitting their applications for compassionate appointment under the die-in-harness scheme of the State, if cannot be considered for the dearth of vacancy, such cases should also be considered next time by giving second chance.

After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of at the motion stage itself directing the petitioner to submit a certified copy of this order forthwith enclosing his educational qualifications, other relevant documents along with the copy of this writ petition including the annexures appended thereto before the District Elementary Education Officer, Nagaon who in turn shall place his case before the next meeting of the DLC for compassionate appointment, District- Nagaon for consideration of his case for appointment on compassionate ground under the die-in-harness scheme of the State obtaining necessary acknowledgment from the said authority in that regard.

Further, the DLC for compassionate appointment, Nagaon shall consider the case of the petitioner for his compassionate appointment in Grade-IV post under the die-in-harness scheme of the State in accordance with law and following the relevant provisions prescribed by various Office Memorandums of the State Government regarding compassionate appointment, presently in force, intimating the petitioner about the outcome of the same.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant