

GAHC010022882022



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

Case No. : WP(C)/889/2022

SALIM UDDIN AHMED
S/O- LATE HAZRAT ALI MONDAL, R/O- VILLAGE TAKIMARI, P.O-
JALESWAR, P.S- LAKHIPUR, DIST- GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY EDUCATION
DEPARTMENT (SECONDARY) TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI- 06

2:THE DIRECTOR SECONDARY EDUCATION
ASSAM KAHILIPARA GUWAHATI -19

3:THE CHAIRMAN DISTRICT LEVEL COMMITTEE
(DLC) GOALPARA CUM DEPUTY COMMISSIONER GOALPARA

4:THE INSPECTOR OF SCHOOLS
GOALPARA DISTRICT CIRCLE GOALPARA ASSAM

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 11-12-2023

Heard Ms. A. Hussain, learned counsel for the petitioner. Also heard Mr.
U. Sarma, learned standing counsel, Education (Secondary) Department,

representing the respondent Nos.1, 2 & 4 and Mr. B. Deuri, learned counsel, representing the respondent No.3.

The case projected in the present proceeding is that the petitioner had staked a claim for appointment on compassionate ground on account of the death of his father Late Hazrat Ali Mondal, who at the time of his death, was working as an Assistant Teacher of Jaleswar Girls' High School. The death of the father of the petitioner had occasioned on 28.10.2015. The petitioner had thereafter submitted his application for appointment on compassionate ground on 07.08.2017. The said application not being processed, the petitioner has instituted the present proceeding.

The respondent No.2, i.e. the Director of Secondary Education, by way of filing an affidavit has contended that the case of the petitioner was rejected as he had filed the said application for appointment on compassionate ground after about 2(two) years from the date of the death of his father. The said application was contended to have been filed on 07.08.2017 and it is further contended that the said application had only the particulars of his deceased father and the particulars of the petitioner was not incorporated therein.

The said contention made in Paragraph 5 of the affidavit of the respondent No.2 was clarified on instructions by Mr. U. Sarma to the effect that the said information was so incorporated basing on the materials forwarded to the deponent of the said affidavit by the jurisdictional Inspector of Schools. Mr. U. Sarma has fairly submitted that the case of the petitioner was never placed before the District Level Scrutiny Committee.

The contention of the respondent No.2 that the petitioner had not disclosed the requisite particulars, on the face of it appears to be perverse inasmuch as the application that is so involved is actually a format for applying

for compassionate ground and therein the petitioner had disclosed his name and his educational qualification along with the date of birth as required; along with the details of the deceased employee.

In that view of the matter, the contention that the petitioner had not disclosed the details does not appear to be in consonance with the records. The second contention of the respondent No.2 that the petitioner had applied for appointment on compassionate ground after a long delay and as such his case did not merit consideration, is a conclusion arrived at by the Director of Secondary Education basing on the information supplied by the jurisdictional Inspector of Schools and not that of the District Level Scrutiny Committee or the State Level Committee.

The law as settled by this Court in a number of decisions, the reference to which for the purpose of this case is not required, lays down that the application for compassionate appointment at the first instance has to be placed by the concerned District Departmental Authorities before the jurisdictional District Level Scrutiny Committee, which would be the authority to consider such application and make recommendations basing on the policy of the Government in this connection as well as the decisions governing the field. As contended by Mr. U. Sarma, the said application not having been placed before the District Level Scrutiny Committee, any conclusion arrived thereon by any other authority would have no sustenance. It is only the District Level Scrutiny Committee, which can consider and pass appropriate orders basing on the existing policy as well as the decisions of this Court.

In view of the said position without commenting on the merits of the matter, the Inspector of Schools, Goalpara District Circle is directed to place the application of the petitioner before the jurisdictional District Level Scrutiny

Committee within a period of 10(ten) days from the date of receipt of a certified copy of this order from the petitioner. On such application being placed before the District Level Scrutiny Committee, the same shall be taken up in its following meeting held pursuant to the date of receipt of the proposal from the Inspector of Schools, Goalpara District Circle and the jurisdictional District Level Scrutiny Committee shall scrutinize the application of the petitioner and process the same taking into account all relevant factors strictly in accordance with the policy of the Government in this regard as well as the decisions of this Court holding the field in the matter. The outcome of the said exercise be communicated to the petitioner in writing within a period of 3(three) months from the date the proposal is placed before the District Level Scrutiny Committee. Further, processing of the matter would depend upon the decision of the District Level Scrutiny Committee.

The writ petition stands disposed of.

JUDGE

Comparing Assistant