

GAHC010025332023



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

Case No. : WP(C)/928/2023

RIZAUL ALAM CHOWDHURY
S/O- LT. IDRIS ALI, VILL- MAHERIPAR, P.O. KALIADINGA, DIST.- NAGAON,
ASSAM, PIN- 782124

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
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

29-05-2023

Heard Shri Z. Hammad, the learned counsel for the petitioner. Also heard Shri G. Pegu, the learned State Counsel for the State respondents.

Considering the subject matter in dispute and as agreed to by the parties, this matter is taken up for disposal at the motion stage.

It may be mentioned that pursuant to an order dated 11.05.2023 of this Court, the learned State Counsel has obtained the instructions.

The projected case of the petitioner is that his father, Idris Ali was a Head Master of Maherpar ME Madrassa in the district of Nagaon. He however expired on 06.09.2015 while in service and the petitioner who claims to be eligible for consideration for appointment on compassionate ground had made an application on 16.03.2016. However, the case of the petitioner has been rejected with the remarks "Want of vacancy".

The learned counsel for the petitioner has relied upon the provisions of the Office Memorandum dated 01.06.2015 more particularly Clause-15 thereof, which reads as follows:-

"(15) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Department/Office to take up the matter with other Departments/Offices of the Government to provide at any early appointment on compassionate grounds to those in the waiting list".

As per the said provision, a procedure has been adopted giving opportunity to the administrative Department/Office to take up the matter with other Departments to provide an early appointment on compassionate ground.

The learned counsel for the petitioner submits that the aforesaid provision was not applied and the rejection has been done in a mechanical manner.

On the other hand, Shri Pegu, the learned State Counsel submits that the projection made by the petitioner with regard to the consideration part is not correct and the rejection was done as vacancies were not available not only in the concerned Department but also other Departments at that point of time. Learned State Counsel however is not opposed to the principle of law that one time consideration on merits is mandatory in a case for consideration of appointment on compassionate ground.

In view of the above, this writ petition is disposed of by remanding the matter to the District Level Committee, Nagaon for a fresh consideration on merits in the next meeting and consider the case of the petitioner in accordance with law.

Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant