

GAHC010025392023



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

Case No. : WP(C)/797/2023

AZIB UDDIN MAZUMDER
S/O- LATE BASIR UDDIN MAZUMDAR,
VILLAGE AND P.O- UTTAR KRISHNAPUR,PART-II,
P.S- SILCHAR, DIST- CACHAR, PIN-788006, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, CUM
CHAIRMAN , SLC, ASSAM, DISPUR, GUWAHATI-781006

2:THE DISTRICT LEVEL COMMITTEE (DLC)
REP. BY THE CHAIRMAN CUM DEPUTY COMMISSIONER CACHAR
DISTRICT AT SILCHAR
ASSAM
PIN- 788001

3:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI-07
ASSAM

4:THE DIG OF POLICE

ASSAM
AT TARAPUR
SILCHAR
ASSAM
PIN-788001

5:THE SUPERINTENDENT OF POLICE
CACHAR
SILCHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

11.04.2023

Heard Mr. S. Afridi, learned counsel for the petitioner. Also heard Mr. J. K.

Goswami, learned Addl. Sr. Govt. Advocate, Assam appearing for the official respondents.

This writ petition has been filed with a prayer to issue a direction for considering the application submitted by the petitioner for appointment on compassionate ground. It appears that the petitioner's father, Late Basis Uddin Mazumdar was serving as an Armed Branch Constable under the Deputy Inspector General of Police, Silchar, Cachar, Assam. He died in harness on 10.07.1996. After the death of his father, the petitioner claims to have submitted an application seeking appointment on compassionate ground in the year 1997 but the said application is not available on record. According to the petitioner, he had filed another application on 04.05.2005 but no action was taken on the said application. The prayer of the petitioner seeking appointment on compassionate ground was finally rejected by the District Level Committee (DLC) in its meeting held on 31.07.2015. Aggrieved thereby, this writ petition has

been filed.

After careful scrutiny of the materials available on record, it transpires that the petitioner was a minor in the year 1997 when his father died. Therefore, he could not have been appointed in any Government job at that time. In so far as the application submitted in 2005 is concerned, the same was also submitted almost nine years since the death of his father. It is no doubt correct that the DLC considered his application and rejected the same on 31.07.2015 on the ground of delay but what is to be noted herein that there was substantial delay on the part of the petitioner himself in submitting his application seeking appointment on compassionate ground. There was a Govt. circular in force at the relevant point of time requiring all applications for compassionate appointment to be filed within one year from the date of death of the Govt. employee. In view of such Govt. Circular, the application of the writ petitioner was rejected on the ground of delay.

In the case of **Fertilizers and Chemicals Travancore Ltd. & Others vs. Anusree K.B. (Civil Appeal No.6958/2022)** the Supreme Court, while considering the validity of an order of rejection of application for appointment on compassionate ground, has held as follows :-

“9.1 Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the observations made hereinabove and the object and purpose for which the appointment on compassionate ground is provided, the respondent shall not be entitled to the appointment on compassionate ground on the death of her father, who died in the year 1995. After a period of 24 years from the death of the deceased employee, the respondent shall not be entitled

to the appointment on compassionate ground. If such an appointment is made now and/or after a period of 14/24 years, the same shall be against the object and purpose for which the appointment on compassionate ground is provided."

Having regard to the facts and circumstances of the present case, I am of the opinion that the ratio laid down in the case of **Fertilizers and Chemicals Travancore Ltd. & Others** (supra) would be squarely applicable to the facts of the present case as well. It is to be noted herein that the basic objective of the scheme of compassionate appointment framed by the Government is to provide immediate relief to the family of the deceased employee which has lost the sole bread earner. Therefore, no direction can be issued to the authorities to appoint the writ petitioner on compassionate ground after 26 years of the death of his father as such a direction would be opposed to the basic objective of the scheme. As such, this case is held to be devoid of any merit and is accordingly dismissed.

JUDGE

Comparing Assistant