

GAHC010027912022



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

Case No. : WP(C)/1154/2022

MINTU DAS
S/O. LT. THANESWAR DAS, R/O. D. R. COLLEGE ROAD, W/NO.-9, H/NO.-715,
GOLAGAHT, P.O. AND DIST. GOLAGAHT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
IRRIGATION DEPTT., DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
IRRIGATION DEPTT.
DISPUR
GUWAHATI-781006.

3:THE CHIEF SECRETARY
TO THE GOVT. OF ASSAM CUM CHAIRMAN
STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
DISPUR
GUWAHATI-06.

4:THE CHIEF ENGINEER

IRRIGATION
ASSAM
CHANDMARI
GUWAHATI-781003.

5:THE DISTRICT LEVEL COMMITTEE
REP. BY THE DEPUTY COMMISSIONER
GOLAGHAT

ASSAM
P.O. AND DIST. GOLAGHAT
PIN-785621

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

24.02.2023

Heard Mr. F. A. Laskar, learned counsel for the petitioner; Ms. M.D. Borah, learned Standing Counsel for the respondents No. 3 & 5 and Mr. N. Upadhyay, learned counsel for the Irrigation Department.

2. The grievance of the petitioner is that pursuant to the death of the father of the petitioner late Thaneswar Das on 15.03.2015 where he expired while on service, an application for seeking appointment on compassionate ground was filed by the petitioner on 09.06.2015. Thereafter, the DLC, Golaghat by its meeting dated 16.11.2015 recommended the name of the petitioner for Grade-III post of Section Assistant in the said Department. However, subsequently the SLC in its meeting held on 15.09.2021 rejected the case of the petitioner on the ground that the deceased Government servant namely, the father of the petitioner, had less than 3 years of service at the time of death as per Para 1 of the Office Memorandum dated 01.06.2015. The Para 1 of the Office Memorandum reads as under:

(1) Only one dependent family member of a Government servant appointed on regular basis-excluding one working on daily wage or casual or apprentice or ad-hoc or contract or re-

employment basis- who die in harness or become incapacitated due to accidents suffered while on duty and is eligible to opt for invalid pension under relevant provision of Service Rule/ Pension Code and/ or who is missing is eligible for making application for compassionate appointment provided in each case the Government servant has balance of minimum of 3 years of service.”

3. It is submitted at the bar that the Co-ordinate Bench of this Court had the occasion to deal with similar matters vide Judgment & Order dated 30.01.2023 passed in W.P(C) No. 1646/2021 and other bunch of writ petitions interfered with the Clause-1 of the Office Memorandum dated 01.06.2015 on the ground that it is ultra vires and thereupon set aside.

4. The learned Standing counsel for the Department does not dispute the contentions made. It is also seen that no further appeal or review against the order has been preferred by the respondent Authorities.

5. Accordingly, since a Co-ordinate Bench of this Court has already rendered a finding interfering and setting aside with Clause-1 of the Office Memorandum, this writ petition is also allowed setting aside with the Minutes of the Meeting dated 15.09.2021 held by the SLC in so far as it relates to the petitioner namely Mintu Das. The matter is remanded back to the SLC to reconsider the case of the petitioner in terms of the Judgment and Order dated 30.01.2023 passed in W.P.(C) No. 1646/2021 (*Vashkar Konwar Vs. The State of Assam & Ors.*)

6. The writ petition is, accordingly, allowed and disposed of.

7. The respondent authorities are directed to place the matter before the next available SLC without fail. The SLC thereafter will consider the same in

terms of the Judgment and Order dated 30.01.2023 passed in W.P.(C) No. 1646/2021.

JUDGE

Comparing Assistant