

GAHC010027922023



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

**Case No. : WP(C)/890/2023**

DUSHMANTA NATH  
S/O- LT. SUREN CHANDRA NATH, R/O- BESERIA, KONAI BORAH NATH, P.O.  
BESERIA, P.S. TEZPUR, DIST.- SONITPUR, ASSAM, PIN- 784150

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PUBLIC  
WORKS (BUILDING AND N.H.) DEPTT., GHY-06

2:THE CHIEF SECRETARY  
ASSAM CUM CHAIRMAN OF THE STATE LEVEL COMMITTEE  
DISPUR  
GHY-06

3:THE CHIEF ENGINEER  
PWD (BUILDING DIVISION)  
ASSAM  
CHANDMARI  
GHY-03  
DIST.- KAMRUP (M)  
ASSAM

4:THE DY. COMMISSIONER CUM CHAIRMAN  
DISTRICT LEVEL COMMITTEE  
SONITPUR  
TEZPUR  
DIST.- SONITPUR  
ASSAM

5:THE EXECUTIVE ENGINEER  
PWD

TEZPUR BUILDING DIVISION  
TEZPUR  
DIST.- SONITPUR  
ASSA

**Advocate for the Petitioner** : MR D K MEDHI

**Advocate for the Respondent** : SC, PWD (BULDING)

**BEFORE**  
**HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**Date : 14/11/2023**

Heard Ms. P. Boruah, learned counsel for the petitioner. Also heard Mr. J. K. Goswami, learned Additional Senior Government Advocate and Mr. R. Dhar, learned standing counsel, PWD.

2. This writ petition is filed by the petitioner aggrieved by the rejection of the petitioner's application seeking compassionate appointment by the SLC. The petitioner's father died-in-harness on 06.10.2015 when he was serving under the establishment of Executive Engineer (Building), PWD, Sonitpur at Tezpur.

3. Petitioner submitted his application which was considered by the District Level Committee (DLC), which recommended the case of the petitioner. The State Level Committee (SLC), however, by its meeting held on 20.08.2018 rejected the case of the petitioner on the ground that there was no vacancy available under the quota of 5% under Tezpur Building Division. The grievance of the petitioner is that other similarly situated cases were considered in respect of other vacancies available under other Administrative Departments, whereas the case of the petitioner was not considered against any other vacancies.

4. Mr. J. K. Goswami, learned Additional Senior Government Advocate and Mr.

R. Dhar, learned standing counsel, PWD submits that the petitioner's case was duly considered by the SLC and no further consideration is required.

5. Learned counsels for the parties have been heard. Pleadings have been carefully perused. In terms of Office Memorandum dated 01.06.2015, as per the Clause 15 of the Office Memorandum, it is provided that when sufficient vacancies are not available in a particular office to accommodate the persons for compassionate appointment. It is open to the Administrative Department's office to take up the matter with other offices or the Government to provide an early appointment on compassionate ground. The said paragraph 15 of the OM dated 01.06.2015 is extracted below:-

*“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 an early appointment on compassionate grounds to those in the waiting list.”*

6. This Court is of the view that since there is a guideline in place and the department is expected to follow the guidelines when disposing of cases under compassionate appointment, it is seen from the SLC minutes dated 20.08.2018 that case of the petitioner was considered but not recommended as the ceiling of 5% has already been made in respect of the Tezpur Building Division. The SLC minutes does not contain any discussion as to whether any vacancies are available under other Administrative Heads and if any vacancies there under were available whether the case of the petitioner could have been considered in respect of those vacancies.

7. Having considered the submissions of the learned counsel for the parties, this Court is of the considered view that this writ petition can be closed directing the matter to be reconsidered by the SLC again in its next meeting and to examine as to whether petitioner's case can be considered as per clause 15 of the Office Memorandum dated 01.06.2015 by examining whether there were other vacancies available on the date when the petitioner's case was considered on 20.08.2018. In the event, the SLC finds the vacancies were available and the petitioner could have been appointed, then the case of the petitioner will be considered again and recommended for such appointment.

8. The impugned minutes dated 20.08.2018 of the SLC in so far as the writ petition is concerned will be subject to the further exercise directed to be carried out by the SLC in terms of the Court's order. In the event, the SLC holds that there are vacancies in which the petitioner can be recommended, then the recommendations of the SLC in its earlier meeting held on 20.08.2018 and impugned in this writ petition in so far as the writ petitioner is concerned, will stand re-called.

9. The entire exercise be carried out within a period of 60 (sixty) days from the date of receipt of a certificate of this order.

10. Writ petition stands disposed of in terms of the above.

**JUDGE**

**Comparing Assistant**