

GAHC010029062017



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

Case No. : WP(C)/3950/2017

TROPHY AHMED
S/O LATE MOMIR UDDIN AHMED, VILL-BARUAJHAR, WARD NO.9, PO-
HAKAMA, PS-BILASIPARA, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM and 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
ELEMENTARY EDUCATION DEPTT., DISPUR, GUWAHATI-6

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

3:THE DISTRICT LEVEL COMMITTEE
DHUBRI
PS and PO DHUBRI
PS and PO DHUBRI
DIST. DHUBRI
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
PO and PS DHUBRI
DIST. ASSAM

5:THE DEPUTY INSPECTOR OF SCHOOL
DHUBRI
ASSAM

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
BILASIPARA EDUCATION BLOCK
PO and PS BILASIPARA
DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR.S M RAHMAN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 22.03.2023

Heard Mr. A.A.R. Karim, learned counsel for the petitioner. Also heard Mr. A. Phukan, learned standing counsel for the Elementary Education Department, representing respondent nos.1, 2, 4, 5 and 6, and Ms. D.D. Barman, learned Additional Senior Govt. Advocate appearing for respondent no.3.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner is praying for a direction upon the respondent authorities to place the application of the petitioner for compassionate appointment before the District Level Committee, Dhubri (DLC for short).

3. In brief, the case of the petitioner is that his father Momiruddin Ahmed, who was working as Head Teacher on regular basis at 1680 No. Chilkikhata L.P. School, Bilasipara in the district of Dhubri had died-in-harness on

26.11.2008, leaving behind his wife, daughter and the petitioner. The petitioner claims that he has passed the HS Examination and therefore, he is duly qualified for being appointed on compassionate ground and accordingly, on 10.10.2009, he had applied for compassionate appointment. It is projected in this writ petition that the petitioner had personally visited the respondent authorities on several occasions, but his claim has not been placed before the DLC for consideration in terms of the judgment of this Court rendered in the case of *Achyut Ranjan Das Vs. State of Assam & Ors., 2004 (4) GLT 674; and Faziron Nessa Vs. State of Assam & Ors, 2010 (4) GLT 340.*

4. It is noted from the affidavit-in-opposition filed by the respondent no.3 that the application of the petitioner for compassionate appointment was placed before the DLC meeting held on 14.06.2010, where including the case of the petitioner, 15 other applications were considered for the post of Assistant Teacher of L.P. School in Bilasipara and the candidature of the petitioner appearing at Sl. No.4 was rejected on the ground that the application was not submitted within a period of 3 (three) months from the date of death of the employee. Although the learned counsel for the petitioner has disputed the said ground, but the learned Additional Senior Govt. Advocate has produced a copy of OM No. ABP 357/80/VOL-1/303 dated 02.03.2009, issued by the Personnel (B) Department, Govt. of Assam to show that as per the said OM, the application in the prescribed format for appointment under the compassionate scheme was to be made within a period of 3 (three) months from the death of employee. The learned Additional Senior Govt. Advocate has also submitted that w.e.f. 01.06.2015, the time limit for submission of application was extended to

one year.

5. Therefore, notwithstanding that the petitioner might not be aware of the rejection of his candidature by DLC in its meeting held on 14.06.2010, the fact that his candidature stood rejected cannot be wished away.

6. It further appears that the candidature of the petitioner was once again placed before the DLC in its meeting held on 17.08.2011, but at that point of time, only 21 posts of Assistant Teacher in L.P. School in Bilasipara was vacant and therefore, 5% quota for appointment on compassionate ground would be available for only 1 post. However, the name of Md. Golam Mostafa was recommended for such appointment and resultantly, the candidature of the petitioner was again rejected for want of vacancy. For the third time, the candidature of the petitioner was rejected in the DLC meeting held on 18.09.2015 and lastly for the fourth time, his candidature was again rejected by the DLC in its meeting held on 11.01.2016.

7. In the considered opinion of the Court, consideration for compassionate appointment cannot be a repetitive exercise, and therefore, when the candidature of the petitioner was rejected by the concerned DLC in its meetings held on 14.06.2010, 17.08.2011, 18.09.2015 and 11.01.2016, there cannot be a fresh consideration of the claim of the petitioner for compassionate appointment, as all the previous rejection have attained finality.

8. Accordingly, as the order of rejection of the candidature of the petitioner by the four hereinbefore referred DLC meeting have attained finality,

the Court does not find this to be fit case to issue any direction to the respondent authorities.

9. Accordingly, this writ petition fails and the same is dismissed.

10. There shall be no order as to cost.

JUDGE

Comparing Assistant