

GAHC010029142023



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

Case No. : WP(C)/816/2023

BITU BARUAH
S/O. LT. JOGESH BEZBARUAH, VILL. ARARA, P.O. ARARA, P.S. NALBARI,
DIST. NALBARI, ASSAM-781334.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HEALTH AND FAMILY DEPT., DISPUR, GUWAHATI-06.

2:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND FW DEPT.
DISPUR-06.

3:THE DIRECTOR OF HEALTH SERVICES (FW)

ASSAM
SWASTHYA BHABAN
HENGRABARI
GUWAHATI-36.

4:THE ADDL. CHIEF MEDICAL AND HEALTH OFFICER (FAMILY WELFARE)

NALBARI
ASSAM-781335.

5:THE DEPUTY COMMISSIONER

NALBARI
ASSAM-781335.

6:THE STATE LEVEL SELECTION COMMITTEE

REP. BY ITS CHAIRMAN
THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
ASSAM SECRETEARIAT (C)
DISPUR
GUWAHATI-781006
ASSAM

Advocate for the Petitioner : MR D KALITA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 22.02.2023

Heard Mr. D. Kalita, learned counsel for the petitioner. Also heard Mr. J. K. Parajuli, learned counsel appears for the respondents No. 5 and 6 and Ms. D. Borah, learned counsel appears for respondents No. 1 to 4.

2. The petitioner sought appointment under the die in harness scheme for being appointment in any available Grade-IV post, commensurate with his qualifications since his father was a Grade-IV employee in the Office of Additional Chief Medical and Health Officer (Family Welfare) Department, Nalbari, Assam but he died in harness on 01.02.2017.

3. The petitioner's case was considered and recommended by the DLC in its meeting held on 21.03.2018 recommending the petitioner for Grade III against OBC/MOBC vacant post. However, the State Level Committee did not accept the

recommendation by referring to the Office Memorandum No. ABP. 50/2006/pt/182 dated 01/06/2015, wherein it was specified that the expired employee should have atleast 3 years of service left. According to the respondents that on a date the petitioner's father expired, he had less than 3 years of service left and accordingly the consideration of the petitioner's case for compassionate appointment is barred by the said clause 1 of the Notification No. ABP. 50/2006/pt/182 dated 01/06/2015. Accordingly, the SLC rejected the case of the petitioner.

4. Learned counsels for the parties are in agreement that the clause 1 of Notification No. ABP. 50/2006/pt/182 dated 01/06/2015 has been interfered with by Co-Ordinate bench of this Court whereby it was held to be ultra vires and set aside.

5. Learned counsels refer to the Judgment of this Court dated 30.01.2023 rendered in WP(C)/1646/2021 (Bhaskar Konwar Vs State of Assam and 4 Ors.) and other connected writ petitions. Perusal of the judgment reveals that this Court on the reasons mentioned in the Judgment and Order has interfered with the clause 1 of the Notification No. ABP. 50/2006/pt/182 dated 01/06/2015 by holding it to be ultravires.

6. The learned Government Advocate has fairly submitted that no further appeal or review has yet been preferred. This writ petition having raised the similar issues is squarely covered by the Judgment and Order of this Court and in terms

of which, this writ petition is also allowed directing the respondent authorities to place this matter before to the State Level Selection Committee for re-consideration of the case of the petitioner in terms of the Judgment and Order dated 30.01.2023 rendered in WP(C)/1646/2021. The impugned minutes of the State Level Selection Committee Minutes No.HLA 972/2015/214 dated 08.06.2020 in so far as it relates to the petitioner namely, Bitu Baruah is set aside.

7. The selection committee will reconsider the case of the petitioner in terms of the Judgment and Order dated 30.01.2023 rendered in WP(C)/1646/2021 (Bhaskar Konwar Vs State of Assam and 4 Ors.) and other connected writ petitions.

8. Accordingly, writ petition is allowed and disposed of.

JUDGE

Comparing Assistant