

GAHC010036702023



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

Case No. : WP(C)/990/2023

RAKTIM SINGH
S/O- LT. RASHI SINGH, R/O- VILL- GHILAMARA, P.O. AND P.S.
GHILAMARA, DIST.- NORTH LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PWRD DEPTT.,
DISPUR, GHY-6

2:THE CHIEF SECRETARY CUM CHAIRMAN THE GOVT. OF ASSAM
STATE LEVEL COMMITTEE
DISPUR
GHY-6

3:THE DY. COMMISSIONER CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE
LAKHIMPUR
NORTH LAKHIMPUR

4:THE EXECUTIVE ENGINEER
PWRD
DHAKUAKHANA TERRITORIAL ROAD DIVISION GHILAMAR

Advocate for the Petitioner : MR A KHANIKAR

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24.02.2023

Heard Mr. A. Khanikar, the learned counsel appearing on behalf of the petitioner. Ms. A. Talukdar, the learned counsel appears for the respondent Nos. 2 and 3, Mr. R. Dhar, the learned counsel appearing for the respondent Nos.1 and 4.

Taking into account the matter in issue, this Court takes up the matter for disposal at the motion stage itself.

The petitioner herein had applied for appointment on compassionate ground pursuant to the death of his mother on 8/1/2012. On the ground that the mother of the petitioner had less than three years of service, the said State Level Committee for compassionate appointment had rejected the case of the petitioner by applying Clause -1 of the Office Memorandum dated 1/6/2015 whereby a dependent family member of a Government servant appointed on regular basis has been held to be eligible for making an application for compassionate appointment provided the deceased Government servant had more than the minimum of 3 years of service.

The learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to the judgment dated 30/1/2023 passed in the case of Bhaskar Konwar Vs. State of Assam and 4 Ors.(W.P.(C) No.1646/2021), wherein this Court held that Clause -1 of the Office Memorandum dated 1/6/2015, whereby the dependant family members of a Government official who die in harness having less than 3 years of service being not eligible as per the office

memorandum is unconstitutional being violative of Article 14 of the Constitution and accordingly the said Clause was struck down.

The learned counsel therefore submits that taking into account the judgment of this Court dated 30/1/2023 in the case of Bhaskar Konwar(supra) the action of the respondents more particularly the State Level Committee in rejecting the case of the petitioner on the ground of his mother having less than 3 years of balance service at the time of death is liable to be interfered with.

This Court upon hearing the learned counsel for the parties and also upon perusal of the judgment in the case of Bhaskar Konwar (supra) is of the opinion that the facts involved in the instant case is squarely applicable to the facts involved in the said case of Bhaskar Konwar(supra) and accordingly this Court therefore interferes with the rejection of the candidature of the petitioner as contained in Sl. No. 12 in the Minutes of the Meeting of the State Level Committee for appointment on compassionate ground held on 15/2/2022. This Court therefore directs the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 1/6/2015. This Court further makes it clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 1/6/2015 including the 10 principles as set out in the said Memorandum.

The said exercise be carried out in the next State Level Committee meeting after a certified copy of this order is served upon the concerned departmental head as well as the Chairman of the State Level Committee. The petitioner is further directed to serve the certified copy of this order within 15 days from today.

With the above observations an directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant