

GAHC010054692023



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

Case No. : WP(C)/1712/2023

ABUL KALAM AZAD
S/O- LATE KADER ALI, R/O- OUMURA, P.O. BHOGERPAR, P.S. BARPETA,
DIST.- BARPETA, ASSAM, PIN- 781309

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT.
OF SECONDARY EDUCATION, DISPUR, GUWAHATI- 781006, ASSAM

2:THE DEPUTY COMMISSIONER
BARPETA
ASSAM
PIN- 781314

3:THE INSPECTOR OF SCHOOLS
BARPETA
ASSAM
PIN- 781314

4:THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI
ASSAM
PIN- 781019

5:THE HEADMASTER OF GOC JANTA HIGH SCHOOL
GELABIL
BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MD. H BHUYAN
Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

29-03-2023

Heard Mr. A. Mohammad, learned counsel for the petitioner and Mr. SMT Chistie, learned Standing Counsel, Department of School Education for the respondent Nos. 1 3 and 4. Also heard Mr. P. Saikia, learned Government Advocate, Assam for the respondent No.2.

Father of the petitioner, Kader Ali, was a Grade-IV employee in G.O.C. Janata High School, Gelabil, Barpeta, who died in harness on 12.02.2016.

It appears that the petitioner applied for his compassionate appointment in a Grade-IV post by filing an application on 09.02.2017 and the District Level Committee (DLC) for compassionate appointment, District Barpeta in its meeting held on 30.08.2017 rejected the case of the petitioner for his compassionate appointment due to non-availability of posts under the said quota.

As the matter was not considered, thereafter, the petitioner by preferring a writ petition, being WP(C) No. 3386/2022 prayed before the Court for a direction to the respondents therein to consider his case for compassionate appointment, appointing him in a Grade-IV post.

The Court by order dated 18.08.2022, disposed of said WP(C) No. 3386/2022 of the petitioner observing that Clause 15 of the Office Memorandum dated 01.06.2015 specifically provides that if sufficient vacancies are not available in any particular office to accommodate the applicants for appointment on compassionate grounds, it is open to the Administrative Department/Office to take up the matter with other Departments/Offices of the Government to provide an early appointment on compassionate grounds and with such observation the matter was remanded back to the District Level Committee, District Barpeta to reconsider the case of the petitioner in terms of Clause 15 of the OM dated 01.06.2015, in its immediate next meeting.

Pursuant to the said order dated 18.08.2022, the case of the petitioner was placed before the DLC for compassionate appointment, Barpeta again and the said DLC for compassionate appointment, Barpeta in its meeting held on 07.12.2022 rejected the case of the petitioner for his

compassionate appointment as he did not submit his application for his appointment on compassionate ground within one year from the date of death of his father.

Being aggrieved with the same the petitioner has preferred this writ petition.

Perused the records of WP(C) No. 3386/2022, disposed of earlier on 18.08.2022.

It is seen from the records of said WP(C) No. 3386/2022 that the petitioner earlier applied for his compassionate appointment on 31.05.2017 before the Inspector of Schools, Barpeta for his compassionate appointment, but as he was a minor, there was no response from the authorities in the Secondary Education Department regarding his appointment on compassionate ground. Thereafter, the petitioner again on 30.09.2021 submitted another application before the Inspector of Schools, Barpeta through the concerned MLA of Chenga Legislative Assembly Constituency for his compassionate appointment, which was accordingly moved and was placed.

We have notice here that the date of birth of the petitioner is 31.12.1999 as per his Class-X HSLC pass Certificate issued by the SEBA on 02.06.2015 and at the time of filing of said application on 31.05.2017, the petitioner was only 17 years 5 months. But, later when the petitioner on 30.09.2021 filed his next application for his compassionate appointment before the Inspector of Schools, Barpeta, he was 21 years 08 months 29 days. This reflect that the petitioner immediately on attaining the age of majority at the age of 18 years did not file any application for compassionate appointment and awaited for more than three years nine months after becoming a major of 18 years on 31.12.2017 to submit such application for compassionate appointment, as noted above.

It is well settled that – *the Compassionate Appointment is given as an immediate measure only to get over the death of the bread earner at that point of time and there cannot be any vested right on such appointment except that such consideration can only be done as per prevailing policy. After passage of long time, the sense of immediacy gets lost. The very raison d'être for giving compassionate appointment or compassionate benefit is lost once the immediacy has died down. Once the long time passed by, the compassionate element stands extinguished. A family who could survive for long years would not be entitled to any compassionate benefit since compassionate benefit is not a largesse nor it is a rule in the employment.*

As such, the decision of the DLC for compassionate appointment, Barpeta considering that the petitioner filed such application after one year from the date of death of his father, does not

call for any interference.

Accordingly, this writ petition being devoid of any merit stands dismissed.

JUDGE

Comparing Assistant