

GAHC010058412019



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

Case No. : Cont.Cas(C)/168/2019

BHASKAR BORAH
S/O- KUNJA BORAH, R/O- AMGURI TOWN, WARD NO.4, P.O. AMGURI, P.S.
AMGURI, PIN- 785683, DIST- SIVASAGAR, ASSAM, PH NO. 9706322352

VERSUS

KUMAR SANJAY KRISHNA AND 3 ORS.
I.A.S. ADDL. CHIEF SECY., HOME AND POLITICAL DEPTT., ASSAM, ASSAM
SECRETARIAT, DISPUR, GHY, KAMRUP (M), ASSAM, PIN- 781006

2:NITUL GOGOI
I.P.S.
DIGP (MPC)
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY
KAMRUP (M)
ASSAM
PIN- 781007

3:S. LAKSHMANAN
IAS
DY. COMMISSIONER
SIVASAGAR
OFFICE OF THE DY. COMMISSIONER
ASSAM
PIN- 785604

4:AMITABH SINHA
APS
THE SUPERINTENDENT OF POLICE
SIVASAGAR

OFFICE OF THE SUPERINTENDENT OF POLICE
SIVASAGAR
ASSAM
PIN- 78560

Advocate for the Petitioner : MR G CHAMUAH

Advocate for the Respondent : MR. M BHAGABATI (R1)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

21.08.2023

Heard Mr. C Baruah, learned counsel for the petitioner. Also heard Mr. M. Bhagabati, learned counsel for the respondent No. 1.

2. This contempt petition has been filed alleging willful disobedience of the directions of the Court vide order dated 08.02.2018 passed in W.P.(C) No. 5745/2014. By the said order, this Court disposed of the writ petition with the following directions:

“In view of the consent of the parties, and keeping in mind the facts and circumstances of the case, this court is of the view that the petitioner’s application for compassionate appointment has to be considered by the SLC in view of the fact that the DLC has already recommended the case of the petitioner for compassionate appointment. The letter No.SVPP.62/2008-09 dated 03.08.2010 issued by the Deputy Commissioner, Sivasagar shows that the petitioner has been recommended for compassionate appointment to the post of UB Constables and a request has been made to place the proposal before the SLC for consideration.

In view of above, the SLC (respondent No.2) is directed to consider the case of the petitioner in its next meeting for compassionate appointment, provided the same has not been done earlier. If the petitioner’s application for compassionate appointment has already been considered earlier, the result of the same should be communicated to the petitioner by the Commissioner and Secretary to the Government of Assam Home Department.”

3. The learned counsel for the petitioner submits that inspite of specific directions by the court, the order was not complied with and, therefore, the contempt petition has been filed.

4. The respondents No. 1 & 2 have filed their affidavits. From Perusal of the affidavit filed by respondent No. 1, it is seen that the case of the petitioner after being recommended by the DLC was placed before the SLC and the SLC had considered the case on 25.02.2011 but the same was rejected due to late submission of the application. It is further submitted that this intimation was furnished to the petitioner in terms of the directions of this Court at the address reflected in the writ petition.

5. The affidavit of the respondent No. 2 reflects that the case of the petitioner was considered by DLC on 20.08.2018 for the year 2017-18 and thereafter, the same was forwarded by the Deputy Commissioner Sivsagar by communication dated 29.08.2018 to the Commandant 1st AP Battalion, Ligoriphuri, Nazira, Sivasagar, which was subsequently forwarded along with the minutes of the DLC and the application to the Assistant Inspector General of Police (W&S) on 30.08.2018. The Assistant Inspector General of Police (W&S) forwarded the same to the Additional Secretary to the Government of Assam, Home (A) Department on 04.09.2018 for approval of the State Level Committee. However, whether the State Level Committee had approved the said proposal was not received by the Department at the time of filing the affidavit.

6. Mr. Baruah, learned counsel for the petitioner submits that there is a conflict between the averments made by the Respondents No. 1 & 2. While the respondent No. 1 has stated that the proposal of the petitioner was considered by the SLC by its meeting held on 25.02.2011 and thereby rejected the proposal of the petitioner, the affidavit filed by the respondent No. 2 reflects that the DLC

had recommended the case of the petitioner 20.08.2018. Under such circumstances, the statements made by both respondents No. 1 & 2 are contradicting each other inasmuch as the SLC could not have rejected the case of the petitioner on 25.02.2018, when the DLC had considered the case of the petitioner on 20.08.2018.

7. Upon careful perusal of the pleadings, it is seen that in the order dated 08.02.2018 passed in W.P.(C) No. 5745/201 itself there is a reference of the letter No. SVPP.62/2008-09 dated 03.08.2010 stated to have been issued by the Deputy Commissioner Sivsagar showing that the petitioner has been recommended for compassionate appointment to the post of UB constable by the DLC and a request had been made to place the proposal before SLC for consideration. The said order passed by the Co-ordinate Bench as it appears was passed in view of the consent arrived at between the parties, as is recorded in the said order itself.

8. From a careful perusal of the order dated 03.08.2010, it appears that the case of the petitioner was considered by the DLC earlier and recommended for compassionate appointment to the post of UB Constable. This position was communicated by the Deputy Commissioner Sivasagar by its communication No. SVPP.62/2008-09 dated 03.08.2010.

9. Under such circumstances, this Court closed the writ petition directing the SLC to consider the case of the petitioner in its next meeting, provided the same was not done earlier. The Co-ordinate Bench further directed that if the petitioner's application for compassionate appointment was considered earlier, the result of the same would be communicated to the petitioner by the Commissioner and Secretary, Government of Assam, Department of Home.

10. On careful perusal of the pleadings on record, it is clear that the case of

the petitioner was recommended by the DLC and which was communicated by the Deputy commissioner by communication dated 03.08.2010. The Co-ordinate Bench of this Court directed the consideration of the petitioner's case by the SLC, if not already considered earlier. In the event of the petitioner's case being considered, the result of the same was directed to be communicated to the petitioner.

11. Under such circumstances, it has to be accepted that the petitioner's case was considered by the SLC on 25.02.2011 but rejected the proposal for compassionate appointment. The averments made in the affidavit of the respondent No. 2 will have to be accepted to mean that subsequently the petitioner's case was again considered by the DLC of 20.08.2018 and recommended for the post of Constable (UB). This recommendation was forwarded to the SLC as far back as 04.09.2018 and the result of the meeting of the SLC is not reflected in any of the pleadings.

12. Under such circumstances, this Court is of the view that since the directions contained in the order dated 08.02.2018 passed in WP(C) No. 5745/2014 has been found to be complied with, no case for contempt is made out and the contempt petition can be closed.

13. In view of the submissions made and in view of this order, we find there is no contempt. The contempt petition stands closed.

14. Liberty is, however, granted to the petitioner to file necessary application before Chief Secretary, Assam seeking the result of the SLC minutes in so far as the proposal of the petitioner is concerned, which is stated to have been sent by communication dated 04.09.2018 to the Additional Secretary, Government of Assam, Home (A) Department from the Office of the Assistant Inspector General of Police (W&S), Government of Assam.

15. In view of the above, the contempt petition stands disposed of. Notices issued are recalled.

JUDGE

Comparing Assistant