

GAHC010058812022



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

Case No. : WP(C)/2218/2022

PANKAJ BAISHYA
S/O LATE PUTUL BAISHYA, R/O VILL-JOWARDDRI, P.O.-KAITHALKUCHI,
DIST-NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION DEPARTMENT, DISPUR, GUWAHATI-781006

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

3:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT AND CIRCLE
NALBARI
ASSAM

4:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN
DISTRICT LEVEL COMMITTEE
NALBARI
DIST-NALBARI

5:THE ADDITIONAL DEPUTY COMMISSIONER
NALBARI
ASSA

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : SC, EDU

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

11.10.2023

1. This is the 3rd time, the petitioner is before this Court. The first writ petition being WP(C) No. 7298/2016, was disposed of vide order dated 17.01.2017 by directing the DLC concerned to look into the application of the petitioner for compassionate appointment after getting the vacancy position from the Inspector of Schools, Nalbari.

2. Be stated herein that, the case of the writ petitioner is that his father expired while in service on 15.08.2011 and at the relevant time, since he was a minor, he submitted his application upon attaining the age of majority on 15.07.2013.

3. As directed by this Court on 17.01.2017, the DLC met on 28.04.2017 to consider the case of the petitioner. According to the DLC, there was delay submission of the application by the petitioner but however, it was decided to wait for the outcome of the writ petition filed by the petitioner i.e. WP(C) 7298/2016. Since, the said writ petition was already disposed of on 17.01.2017, the petitioner initiated his second writ petition i.e. WP(C) 6569/2017 and this Court, upon considering the grievances projected, disposed of the same vide

order dated 03.11.2017 by directing the DLC concerned to consider the case of the petitioner on its own merit and the decision taken be conveyed to him. The DLC thereafter took up the case of the petitioner in its meeting held on 21.03.2018 but rejected his application for non submission of the same within the stipulated time as prescribed by the Govt. Office Memorandum dated 01.06.2015.

4. Mr. A. Sarma, learned counsel for the petitioner submits that the reason why the petitioner could not submit the application immediately on the expiry of his father is because he was underage at the relevant time and therefore, only upon attaining the age of majority, he could submit his application on 15.07.2013. As such, there was no delay on the part of the petitioner to submit the application. The learned counsel further refers to the judgment and order dated 24.10.2017 rendered by a coordinate Bench of this Court in WP(C) 9/2017 (***Mrs. Nayanmoni Das Vs. State of Assam and 8 Ors.***), wherein, the earlier decision rendered in (***Faziron Nessa Vs. State of Assam & Ors. reported in (2010) 4 GLT 340***) was also considered. The Court upon considering the matter regarding the stipulation for filing an application for compassionate appointment was of the view that the period of one year for submission of such application cannot be said to be a mandatory requirement and that the same

would depend upon the facts and circumstances of the case. Further, it will also be incumbent upon the applicant to satisfy the existence of such facts and circumstances to justify the acceptance of such application beyond the period of one year from the death or retirement of the Government servant concerned.

5. In the present case, the father of the petitioner undisputedly expired on 15.08.2011 and the petitioner contends that he was underage at that time. Such being, the position and having regard to the decision of this Court in Mrs. Nayanmoni Das (supra) and Faziron Nessa (supra), the writ petition stands disposed of with a direction to the respondent no. 4, the Deputy Commissioner of Nalbari to place the case of the petitioner for consideration before the next DLC sitting. The DLC shall then make a concise decision in terms of the observations made herein above.

6. The petitioner shall submit his birth certificate or any other certificate before the respondent no. 4 within 1(one) weeks from today to show that he was underage as on 15.08.2011, i.e., the date of which his father expired.

7. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant