

GAHC010061072022



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

Case No. : WP(C)/2265/2022

WASIM AKHTAR

S/O- LATE MONIRUZZAMAN, R/O- VILL. KESHARVITA, P.O- JHOWDANGA,
P.S- MANKACHAR, DIST- SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPARTMENT, ASSAM SECRETARIAT, DISPUR,
GUWAHATI-781006, ASSAM

2:THE SPECIAL COMMISSIONER

EDUCATION (SECONDARY) DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
ASSAM

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19

4:THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT

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

5:THE DIST. LEVEL COMMITTEE

FOR COMPASSIONATE APPOINTMENT
REP. BY ITS CHAIRMAN THE DEPUTY. COMMISSIONER
SOUTH SALMARA MANKACHAR
P.O HATSINGIMARI

DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135.

6:THE INSPECTOR OF SCHOOLS
SOUTH SALMARA MANKACHAR
P.O HATSINGIMARI
DIST- SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

04.08.2023

O R D E R

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. U. Sharma, learned Standing Counsel, Secondary Education Department, Government of Assam for respondent Nos.1, 2, 3 and 6 as well as Mr. D. Nath, learned Senior Government Advocate, Assam for respondent Nos.4 and 5.

2. The petitioner's father, late Muniruzzaman, while serving as Assistant Teacher in J.K. Arabic College, Jordanga in the district of South Salmara Mankachar died in harness on 10.06.2010. Thereafter, sister of the petitioner made an application for appointment on compassionate ground on 29.10.2010. As the application of the petitioner's sister was not considered, she approached this Court by filing WP(C) No.2374/2012, which was disposed of by order dated 26.07.2012 directing the petitioner's sister to make a fresh application seeking appointment on compassionate ground in the proper format and if such application is filed within one month from the date of the order, the same shall be considered by the authorities in accordance with law. The petitioner's sister, thereafter, made a fresh application on 08.11.2012. The application of the petitioner's sister was, thereafter, rejected by the concerned District Level Committee on the ground of delay. Being aggrieved, the petitioner's sister again approached this Court by filing WP(C) No.6366/2017, which was disposed of by order dated 04.12.2019 directing the respondent-authorities to consider the case of the

petitioner's sister for appointment under the die-in-harness scheme by placing it before the concerned DLC, which shall not reject the case of the petitioner merely on the ground of delay.

In the meantime, the petitioner's sister got married. She, accordingly, made an application before the Commissioner and Secretary to the Government of Assam, Education (Secondary) Department on 25.10.2021 as well as to the Chairman of the District Level Committee on 25.10.2021 giving no objection in respect of appointment of her brother, Wasim Akhtar, who is the present petitioner.

3. The petitioner, accordingly, made his application for appointment on compassionate ground on 27.10.2021. The case of the petitioner was considered by the District Level Committee, South Salmara in its meeting held on 21.12.2021 and recommended his case for appointment on compassionate ground against a Grade-IV post. The State Level Committee in its meeting held on 01.03.2022, however, rejected the case of the petitioner on the ground of late submission of application as the petitioner had submitted his application after 11 years 4 months and 22 days.

4. Being aggrieved, the petitioner is before this Court by way of the present writ petition.

5. It is the case of the learned counsel for the petitioner that as this Court, by order dated 04.12.2019, passed in WP(C) No.6366/2017, had directed not to reject the case of the petitioner's sister on the ground of delay, the District Level Committee, in its meeting held on 21.12.2021, had correctly recommended the case of the present petitioner for appointment on compassionate ground. However, the SLC rejected the case of the petitioner for late submission of application.

6. It is the case of the petitioner that the application for appointment on compassionate ground, which was earlier filed by his sister and, thereafter, by him is an on-going process and, therefore, his case could not have been rejected for late submission of application, particularly, when his sister has given no objection certificate in that regard.

7. Mr. Nath, learned Senior Government Advocate, Assam, appearing on behalf of the State-respondents, however, submits that if any direction was passed earlier by this Court, it was in respect of the petitioner's sister and not to the petitioner and, therefore, when the District Level Committee had wrongly recommended the case of the petitioner, the State Level Committee had rightly corrected the error committed by the District Level Committee

and rejected the case of the petitioner. He also submits that compassionate appointment is aimed to give immediate financial relief to the crisis being faced by the deceased-family. However, in the present case, after the deceased-family had survived for more than thirteen years, the question of giving compassionate appointment does not arise. Therefore, when the petitioner had applied for appointment on compassionate ground after a lapse of several years, considering his case for appointment on compassionate ground does not arise.

8. After hearing learned counsel for the parties and on consideration of the materials available on record, it is seen that the petitioner's sister had earlier made an application for appointment on compassionate ground and the application was on time. However, during pendency of consideration of her application, the petitioner's sister got married and, thereafter, the petitioner took over from his sister the claim for appointment on compassionate ground. In the considered opinion of this Court, such appointment on compassionate ground cannot be handed over from one person to another within a family, particularly, when the crisis faced by the family has tided over the past 13 years. It appears that it is only an alternative mode of appointment and not on the basis of compassionate ground. Compassionate appointment is not an alternative mode of appointment but it is granted in cases where the bereaved family, who has lost its sole bread-earner, to come out of the financial crisis and can maintain the family. However, in the present case, this Court is not in a position to accept the submission of the learned counsel for the petitioner that the financial crisis still persists even after more than 13 years and that appointment on compassionate ground claimed by the petitioner is an on-going process, which was started by his sister.

9. In that view of the matter, I see no merit in the present writ petition and the same is, accordingly, dismissed. There shall, however, be no order as to costs.

JUDGE

Comparing Assistant