

GAHC010065732023



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

Case No. : WP(C)/1734/2023

ANJALI KUMARI MANDAL

D/O- LATE ASHOK KUMAR MONDAL, VILL.- SUBHASPALLY WARD NO. 3,
P.O., P.S. AND DIST. KOKRAJHAR, ASSAM, PIN- 783370.

VERSUS

THE STATE LEVEL COMMITTEE FOR SELECTION AND 5 ORS
REPRESENTED BY ITS CHAIRMAN CUM CHIEF SECRETARY TO THE GOVT.
OF ASSAM, DISPUR, GUWAHATI-781006.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR GUWAHATI-06.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA GUWAHATI
ASSAM PIN- 781019.

4:THE DISTRICT LEVEL SELECTION COMMITTEE
KOKRAJHAR
REPRESENTED BY THE DEPUTY COMMISSIONER
KOKRAJHAR
BTR ASSAM

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KOKRAJHAR
ASSAM PIN- 783370.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
KOKRAJHAR BTR ASSA

Advocate for the Petitioner : MR. M U MAHMUD
Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

29-03-2023

Heard Mr. M. U. Mahmud, learned counsel for the petitioner and Mr. P. Saikia, learned Government Advocate, Assam for the respondent Nos. 1 and 4. Also heard Ms. N. Phukan, learned Standing Counsel, Department of School (Elementary) Education for the respondent Nos. 2, 3, 5 and 6.

Father of the petitioner, Ashok Kr. Mandal, an Assistant Teacher of Rashtrabhasha Vidyapith Government M.E. School in the district of Kokrajhar died in harness on 29.10.2021.

At the time of his death, the said deceased left behind his wife, i.e., mother of the petitioner, two daughters including the petitioner and one son.

Mother of the petitioner in the meanwhile received family pension.

It is submitted by the petitioner that though she had applied for appointment on compassionate ground after the death of her father, but her case has not yet been placed before the District Level Committee for compassionate appointment, Kokrajhar.

Hence, this writ petition by the petitioner for a direction to the respondents more particularly, the District Elementary Education Officer, Kokrajhar to place the case of the petitioner before the DLC, Kokrajhar for her compassionate appointment and to appoint her on compassionate ground, considering her Educational qualification and pitiable family condition.

The State Government in the Finance (Establishment-A) Department vide Notification No.FEG.28/2017/26 dated 14.09.2017 brought into force the Scheme for 'Compassionate Family Pension' in lieu of 'Compassionate Appointment' namely 'Compassionate Family Pension (CFP)' Scheme that came into force from 01.04.2017.

As per the said Compassionate Family Pension (CFP) Scheme notified on 14.09.2017 if any Government employee dies before superannuation his/her family will get family pension equal to 100% of the last pay drawn by the deceased Government employee for a period

upto the date of deemed superannuation of the deceased Government employee i.e., the date on which the concerned Government employee would have superannuated had he/she been alive which would compensate the loss of family income to a large extent and fulfill the requirement of compassionate conditions arising out of the death of the serving Government employee with the condition that the concerned Government Employee must complete minimum one year of continuous service without break before death while in service.

In the case in hand, the father of the petitioner expired on 29.10.2021 and in view of said Notification of the Finance (Establishment-A) Department dated 14.09.2017, noted above, the petitioner is not entitled to get compassionate appointment under the die-in-harness Scheme, but rather she is entitled to get compassionate family pension.

Accordingly, this writ petition is disposed of at the motion stage itself directing the petitioner to file appropriate application before the Director of Education, Kokrajhar through the Headmaster of said Rashtrabhasha Vidyapith Government M.E. School for Compassionate Family Pension (CFP) in terms of the said Notification No.FEG.28/2017/26 dated 14.09.2017 of the State Government in the Finance (Establishment-A) Department.

Needless to say that in the event of filing of such application by the petitioner, the authorities concerned shall do the needful in accordance with law.

JUDGE

Comparing Assistant