

GAHC010067532020



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

Case No. : WP(C)/2120/2020

RABIUL UDDIN
S/O- LT. RIAZ UDDIN AHMED, P.O. SHITOLI, P.S. BAGHBAR, DIST.-
BARPETA, ASSAM, PIN- 781308

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE REP. THROUGH THE SECY. AND COMM. TO THE GOVT. OF
ASSAM, DEPTT. OF HOME, DISPUR, GHY-6

2:THE STATE LEVEL COMMITTEE
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM
DISPUR
GHY-6

3:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTER
ULUBARI
GHY-7

4:THE SUPERINTENDENT OF POLICE
BARPETA DISTRICT- BARPETA
ASSAM
PIN- 781301

5:THE DISTRICT LEVEL COMMITTEE
REP. BY THE DY. COMMISSIONER
BARPETA DIST-BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : SYED BURHANUR RAHMAN

Advocate for the Respondent : GA, ASSAM (R1TO5)

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

13.10.2023

Heard Mr. B. Chowdhury, learned counsel for the petitioner. Also heard Mr.

A. Chakraborty, learned Additional Public Prosecutor, Assam.

This application is filed by the petitioner praying for direction to the respondent authorities to consider his case for appointment under Compassionate scheme. The petitioner's father died in harness on 30.11.2016 as he was working as an UB constable under the Superintendent of Police of Barpeta District. Being one of the legal heirs the petitioner filed his application on 07.02.2017 for considering his case for appointment under compassionate scheme. Thereafter, the DLC considered the case of the petitioner by its meeting held on 14.07.2017, whereby the name of the petitioner was recommended for appointment to the vacant post of AB Constable in the year 2015. This proposal, however, came to be considered before the SLC and the SLC by its meeting held on 28.06.2018, rejected the case of the petitioner on the ground that he was averaged for the post of constable for the post.

Mr. A. Chakraborty, learned State Counsel, submits on instructions that the cutoff age for constables is 25 years on a date of consideration. It is submitted that the petitioner in his application, which is available in the part of the pleadings, stated that his date of birth is 09.08.1991 and the application was submitted on 07.02.2017, and as such, on the date of the submission of the application, he was more than 26 years old and accordingly, the SLC had rightly rejected the case of the petitioner. There is no infirmity in the minutes of the SLC. Therefore, the same does not call for interference.

Having heard learned counsel for the parties, it is seen that the proposals for consideration of appointment under Compassionate Appointment Scheme is governed by the O.M. dated 01.06.2015 which was prevalent at the time when the case of the petitioner was considered. Under Clause-15 of the O.M. dated 01.06.2015, it is provided that if the case of the petitioner could not be considered in respect of vacancies not being available then the administrative authority will make enquiries to find out availability of vacancies in other administrative department to see if the petitioner's case can be considered.

The application submitted by the petitioner does not reflect that he had applied only for the Post of AB constable. As such, the SLC, which had considered the proposal, was required to consider the proposal of the petitioner

also in the context of Clause-15 of the O.M. dated 01.06.2015. The minutes of the SLC meeting held on 28.06.2018 does not reflect that the SLC had considered the case of the petitioner keeping in mind the Clause-15 of the O.M. dated 01.06.2015. It is possible that in the event there are vacancies available, the petitioner could have been considered for appointment on the compassionate ground notwithstanding that he was considered overage for appointment to the post of constable.

Under such circumstances, this Court is of the view that the writ petition can be disposed of by remanding the matter to the SLC to reconsider the case of the petitioner in respect of any other vacancy that may be available keeping in view the provisions of clause Clause-15 of the O.M. dated 01.06.2015. In the event the SLC finds that petitioner's case could have been considered towards any other vacancy, then necessary orders will be passed which will override the resolution of the SLC held in its meeting on 28.06.2018 in so far as the petitioner's case is concerned regarding rejection of his proposal for being overaged for the post of AB constable.

The SLC will consider the case of the petitioner in its next meeting.

The Deputy Commissioner, Barpeta, is accordingly directed to place a proposal of the petitioner to consider his case for compassionate appointment

again before the SLC in its next meeting in terms of the directions passed in this order.

With the above observation, the petition stands closed.

JUDGE

Comparing Assistant