

GAHC010067712018



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

Case No. : WP(C)/2113/2018

ABHISHEK DAS

S/O- LATE ASHIM KR. DAS, SREENAGAR PATH, BYE LANE -2, H NO. 6, , P.O-
STOPPAGE, GUWAHATI- 781005, ASSAM

VERSUS

UNION OF INDIA AND ANR.

REP. BY SECRETARY TO THE GOVT OF INDIA, DEPTT OF POSTS, NEW
DELHI

2:SENIOR SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVISION
GUWAHATI- 78100

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

06.12.2023

1. Heard Ms. L. Wajeeda, learned counsel for the petitioner. Also heard Ms. A. Gayan, learned CGC.
2. The case of the petitioner is that the petitioner's father Late Ashim Kumar Das served as Personal Assistant in the Saving Bank Control Organization in the Guwahati Post Office. He died (in harness) on 08.12.2009 and the petitioner as the eligible son of the deceased employee made an application on 25.05.2012 for compassionate appointment.
3. Referring to the communication dated 20.04.2017 (Annexure-4), the learned counsel for the petitioner contends that the Senior Superintendant of the Post Offices, Guwahati Division had asked the petitioner to furnish his legal heirs certificate to consider his case under the scheme of compassionate appointment. But even after furnishing of the record, the Authority has not processed the claim for compassionate appointment.
4. Per contra, relying on the affidavit filed on behalf of the respondent Nos. 1 and 2, Ms. A. Gayan, learned CGC submits that the case of the petitioner was put up in the year 2016-17 before the Circle Relaxation Committee (hereinafter referred to as CRC) meeting, however, during the said period, no meeting was held by the CRC. Subsequently, the case of the petitioner was placed in the meeting of CRC on 10.10.2018 along with similarly situated candidates.

5. It is the further stand of the respondents that after consideration of the case of the petitioner along with similarly situated persons, the petitioner could not be appointed as he failed to obtain the necessary marks for such consideration inasmuch as the vacancies were limited. In support of such contention, the respondent authority has also annexed the tabulation sheets made in the CRC meeting held on 10.10.2018 as Annexure-F.
6. Thus, it is the case of the respondent authority that though the petitioner's case was considered, however, his case could not find favour in the meeting of the CRC dated 10.10.2018.
7. Law is well settled that a provision of compassionate appointment makes a departure from the general provision providing for appointments to a post by following a particular procedure of recruitment. Since, such a provision enable appointments being made without following the general procedure of selection, it is in the nature of exception to the general provisions and must be resorted only to achieve the stated objective of compassionate appointment i.e. to enable the family of the deceased to get over the sudden financial crisis.
8. In the case in hand, the case of the petitioner was considered way back in the year 2018 and his case was rejected for want of earmarked vacancy meant for compassionate appointment inasmuch as in terms of comparative merit of claim, the petitioner was unsuccessful. That being the position and in absence of any material to establish that such consideration and rejection is not sustainable in law, this Court cannot interfere with such decision in exercised of its power of judicial review. The another aspect of the matter is that the petitioner has already sustained the initial hardship after death

of his father on 08.12.2019. That being the position, this Court is of the view that no direction can be issued for any appointment under compassionate ground to the petitioner.

9. Accordingly, the present writ petition stands dismissed. However, parties to bear this own cost.

JUDGE

Comparing Assistant