

GAHC010072252023



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

**Case No. : WP(C)/1915/2023**

PARAG JYOTI GOND  
S/O- LATE SIBESWAR GOND,  
R/O- KAMARBONDHA TEA ESTATE,  
P.O.- GOTOONGA,  
P.S.- TITABAR,  
DIST.- JORHAT.

VERSUS

THE STATE LEVEL COMMITTEE AND 4 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF  
ASSAM,  
DISPUR, GUWAHATI, PIN- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
ASSAM  
ELEMENTARY EDUCATION DEPARTMENT  
DISPUR  
GUWAHATI  
PIN- 781006.

3:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN  
DISTRICT LEVEL COMMITTEE  
JORHAT  
DISTRICT- LAKHIMPUR (ASSAM)

PIN- 785001.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
JORHAT  
JORHAT (ASSAM)  
PIN- 785001.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER  
JORHAT ELEMENTARY EDUCATION BLOCK  
DISTRICT- JORHAT (ASSAM)

PIN- 785008

**Advocate for the Petitioner** : MS. S G BARUAH

**Advocate for the Respondent** : GA, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**ORDER**

**Date : 09.10.2023**

Heard Ms. S.G. Baruah, learned counsel for the petitioner and Mr. P. Saikia, learned counsel for the respondents. No. 1 and 3, being the Chief Secretary to the Government of Assam and the Deputy Commissioner, Jorhat, respectively. Also heard Mr. B. Kaushik, learned counsel for the respondents No. 2, 4 and 5, being the authorities in the Elementary Education Department.

2. The father of the petitioner Sibeswar Gond who was a Headmaster of Ghatwating L.P. School in the Jorhat district, died in harness on 11.11.2010 and on his death, the petitioner submitted an application for compassionate appointment immediately thereafter. The said application was rejected by the DLC of Jorhat district in its meeting of 09.07.2012 that the petitioner was not qualified nor any vacancies were available.

3. It is taken note that the application of the petitioner was considered against the post of Assistant Teacher in a school. The law of compassionate appointment requires the application to be considered against any available vacant post for which the person may be qualified and not that the

consideration has to commensurate with the post the deceased employee had earlier held.

4. From such point of view, there is also a requirement under the law to consider the application against any other vacant post in any department for which the petitioner may be qualified. As it was not done, the petitioner submitted another application dated 13.11.2017 which was considered by the DLC of Jorhat district in its meeting of 05.04.2018 and the application was rejected by referring to the O.M. dated 01.06.2015 on the ground of late submission and that the duration of two years had exceeded.

5. The late submission is explained as per the facts noted above that the earlier application which was made on time was not given its due consideration and the later application was only a reminder as regards the kind of consideration the earlier application deserved to be given.

6. From such point of view, the later application dated 13.11.2017 cannot be construed to be an application which was submitted late. As regards the other ground that two years had exceeded, there is a requirement of law that the earlier rejection must be because of want of vacancy and thereupon the application is pending for more than years.

7. As we have noted above, the earlier application of the petitioner was not given its due consideration as the petitioner was not considered against a vacant post for which he is duly qualified, rather it was rejected on a presumption that the claim of the petitioner is required to be considered against the post of an Assistant Teacher.

8. From such point of view, the rejection by the DLC of Jorhat district in its meeting of 05.04.2018 is set aside and matter is remanded back to the DLC of Jorhat district for a fresh consideration, as per law. The application of the

petitioner be placed before the next available DLC of Jorhat district.

Writ petition stands disposed of as indicated above.

**JUDGE**

**Comparing Assistant**