

GAHC010073892018



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

**Case No. : WP(C)/2367/2018**

MEHMUD HUSSAIN

S/O- LATE AZAD HUSSAIN, VILL- BUDUCHAR, P.O- DALGUMA, P.S- MATIA,  
DIST- GOLAPARA, ASSAM, PIN- 783125

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,  
EDUCATION DEPARTMENT(SECONDARY), DISPUR, GUWAHATI- 06

2:THE DIRECTOR OF SECONDARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI- 19

3:THE DEPUTY COMMISSIONER  
GOALPARA  
DIST- GOALPARA  
ASSAM  
PIN- 783101

4:THE INSPECTOR OF SCHOOLS  
GOALPARA DISTRICT CIRCLE  
GOALPARA  
DIST- GOALPARA  
ASSAM  
PIN- 78310

**Advocate for the Petitioner : MR. S RAHMAN**

**Advocate for the Respondent : SC, SEC. EDU.**

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**24-02-2023**

No representation on behalf of the petitioner on call.

Heard Mr. B. Kaushik, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1, 2 & 4. Also heard Ms. D. D. Barman, learned Government Advocate, Assam for the respondent No. 3.

Father of the petitioner, namely Azad Hussain was serving as a Laboratory Bearer (Grade-IV employee) in Dalguma Higher Secondary School, Dalguma in the district of Goalpara who died in harness on 11.07.2017 leaving behind his widow and the petitioner.

The petitioner submitted that his mother was fully dependent on the income of deceased Azad Hussain and none of his family is employed either in any Government Department or any other organizations.

As the petitioner passed his H.S.L.C. Examination in the year 2016 from Dalguma H.S. School, he submitted a representation on 09.10.2017 before the Deputy Commissioner, Goalpara for his appointment on compassionate ground on the death of his father who died-in-harness on 11.07.2017.

Similar application was also filed by the petitioner before the Director of Secondary Education, Assam on 12.03.2018 for his appointment on compassionate ground. But as the respondent authorities have not considered his case and did not place it before the District Level Committee for Elementary, District-Goalpara, the petitioner filed this writ petition on 10.04.2018 praying for a direction to the respondent authorities to appoint him on compassionate ground as per the Office Memorandum dated 01.06.2015.

By Office Memorandum No. ABP.50/2006/Pt/182 dated 01.06.2015, the Personnel (B) Department of the State specified the relevant guidelines to be followed for consideration of the

compassionate appointment wherein it also specified the proper format that a candidate is required to apply for his/her compassionate appointment giving all the details as specified in the prescribed format.

However, in this petition, the petitioner did not mention as to whether his mother received family pension or not to establish the fact that his father was serving as a Government employee or not.

The State Government in the Finance (Establishment-A) Department vide Notification No. FEG.28/2017/26 dated 14.09.2017 notified the Scheme for Compassionate Family Pension in lieu of the compassionate appointment, in complete suppression of the compassionate appointment Policy of the State Government notified by the Personnel (B) Department of the State vide Office Memorandum No. ABP. 50/2006/Pt/182 dated 01.06.2015 and all other relevant Office Memorandums.

As per the said Notification dated 14.09.2017 of the Finance (Establishment-A) Department of the State where any State Government Employee dies-in-harness (before superannuation), the Family Pension equal to 100% of the last pay drawn by the deceased Government Employee shall be paid for a period upto the date of superannuation of the deceased employees i.e., the date on which the deceased employee would have superannuated had he been alive. This 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 employee where the Government servant must complete minimum one year of continuous service without break before death while in service.

Further, in terms of the said Notification dated 14.09.2017, noted above, the said scheme is applicable to all those government employees who died-in-harness on or after 01.04.2017 clarifying that the OM dated 01.06.2015 issued by the Personnel (B) Department shall be applicable to all those Government employees who died-in-harness on or before 31.03.2017.

Since the father of the petitioner expired on 11.07.2017 as seen from the Death Certificate annexed to this petition as Annexure-I, the case of the petitioner is covered by the Notification No. FEG.28/2017/26 dated 14.09.2017 issued by Finance (Establishment-A) Department of the State and his case will not come under the Office Memorandum No. ABP. 50/2006/Pt/182 dated 01.06.2015 of the Personnel (B) Department of the State regarding his compassionate appointment under the die-in-harness Scheme but he is entitled for compassionate family pension pursuant to the said Notification dated 14.09.2017, noted above.

In view of the above, the petitioner may approach the appellate forum for consideration of compassionate family pension as per his due.

With the above observation, this writ petition stands disposed of.

Registry shall communicate this order to the petitioner in his given address mentioned in the cause title as well as in the affidavit filed by him with this writ petition.

**JUDGE**

**Comparing Assistant**