

GAHC010082582023



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

Case No. : WP(C)/2234/2023

RWIRUB BRAHMA

S/O- LATE RAKESH BRAHMA, R/O- VILL.- GOYBARY, P.O. AND P.S. DOTMA,
DIST. KOKRAJHAR, BTAD, ASSAM, PIN- 783347.

VERSUS

THE STATE OF ASSAM AND 8 ORS.

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE STATE LEVEL SELECTION COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND
REPRESENTED BY CHAIRMAN
SLSC
DISPUR
GUWAHATI-06.

5:THE DISTRICT LEVEL SELECTION COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND IN SCHOOL
REPRESENTED BY THE CHAIRMAN DLSC
BTC
KOKRAJHAR

ASSAM
PIN- 783347.

6:THE MEMBER SECRETARY
DISTRICT LEVEL SELECTION COMMITTEE FOR APPOINTMENT ON
COMPASSIONATE GROUND IN SCHOOL
REPRESENTED BY THE CHAIRMAN DLSC
BTC
KOKRAJHAR
ASSAM
PIN- 783347.

7:THE MEMBER SECRETARY
DLSC
BTC
KOKRAJHAR CUM INSPECTOR OF SCHOOLS
KDC
KOKRAJHAR
ASSAM
PIN- 783347.

8:THE BODO TERRITORIAL COUNCIL (BTC) NOW BTR
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM

9:THE DIRECTOR OF EDUCATION
BTAD
KOKRAJHAR
ASSAM
PIN- 783347

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

28/04/2023

Heard Mr. M U Mondal, learned counsel for the petitioner. Also heard Mr. P Saikia, learned Government Advocate, Assam for the respondent Nos. 1 & 4; Mr. S M T Chistie, learned Standing counsel, Department of School Education for the respondent Nos. 2 & 3 and Mr. R K Mushahary, learned Standing counsel, BTC for the respondent Nos. 5 to 9.

2. Matter pertains to compassionate appointment of the petitioner under the Die-in-Harness Scheme of the State as his father, Rakesh Brahma, Assistant Teacher of Dotma Higher Secondary School under the BTC, died-in-harness on 07.07.2013.

3. Earlier on his application for compassionate appointment in due time, the District Level Selection Committee (DLSC) for compassionate appointment, District-Kokrajhar on 07.07.2020 could not recommend the case of the petitioner due to lack of vacancy under 5% quota for the years 2013-2014 and 2014-2015.

4. Being aggrieved, the petitioner has preferred a writ petition being WP(C) No. 4926/2020 that was disposed of by the Court on 25.11.2020.

5. The Court in the said order dated 25.11.2020 passed in WP(C) No. 4926/2020 at paragraphs 4, 5 and 6 observed as follows:-

4. In our view, the said provision is merely a conclusion of the committee but does not indicate the reason as to why the DLSC had arrived at its conclusion that there was no vacancies for the years 2013-2014 and 2014-2015. It is incumbent upon the DLSC to analyse as to which are the departments concerned, what are the number of vacancies available, how many filled up under the claim of compassionate appointment and as a result, whether any vacancies are available or not.

Mere writing a single sentence that no vacancy available is not sufficient.

5. In the circumstances, we remand the matter back to the DLC of BTC for a fresh consideration by setting aside the minutes dated 07.07.2020.

6. We have taken note that there cannot be any Secondary Education Department of Kokrajhar district as provided in heading of the minutes where the committee is described.

6. The case of petitioner was again placed before the DLC, Kokrajhar on 01.11.2021 and on the said date, the DLC again could not recommend the case of the petitioner for his compassionate appointment under the Die-in-Harness Scheme on the ground of non-fulfillment of 5% of reserved quota.

7. Being aggrieved with such decision of the DLC, Kokrajhar, the petitioner has preferred this writ petition.

8. At Para 4 of the said order dated 25.11.2020 passed in WP(C) No. 4926/2020, the Court observed that *the DLC, Kokrajhar did not indicate the reason as to why the DLSC had arrived at its conclusion that there was no vacancies for the years 2013-2014 and 2014-2015 and it is incumbent upon the DLSC to analyze as to which are the Departments concerned, what are the number of vacancies available, how many filled up under the claim of compassionate appointment and as a result, whether any vacancies are available or not.*

9. From the reading of the Minutes dated 01.11.2021 of the DLC, Kokrajhar, whereby the case of the petitioner could not be recommended for his compassionate appointment under 5% quota, it is found that the same is not in terms of the observations made by the Court on 25.11.2020 passed in WP(C) No. 4926/2020.

10. Accordingly, the decision of the DLC, Kokrajhar dated 01.11.2021 failing to recommend the case of the petitioner for his compassionate appointment under the Die-in-Harness Scheme of the State being not conformity with the specific direction issued by the Court in the said order dated 25.11.2020 passed in WP(C) No. 4926/2020 stands set aside and quashed.

11. The petitioner shall furnish a certified copy of this order before the Inspector of Schools, Kokrajhar cum Member Secretary of the DLC, Kokrajhar forthwith along with a copy of the said order dated 25.11.2020 passed in WP(C) No. 4926/2020 and a copy of this writ petition including the Annexures appended thereto with his full details including his address, phone number/mobile number and e-mail address etc., obtaining necessary acknowledgment from the said authority in that regard on or before 15.05.2023

12. In the event of submission of the certified copy of this order, the said Member Secretary of

the DLC, Kokrajhar shall place the case of the petitioner before the DLC, Kokrajhar for reconsideration of his case for compassionate appointment.

13. The DLC, Kokrajhar shall now reconsider the case of the petitioner for his compassionate appointment in terms of the direction issued in the said order dated 25.11.2020 passed in WP(C) No. 4926/2020, more particularly, paragraphs 4 and 5 specified therein and shall intimate the petitioner about the outcome of his claim for compassionate appointment.

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

JUDGE

Comparing Assistant