

GAHC010090522023



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

Case No. : WP(C)/2333/2023

BABUL NATH
SON OF LATE PHANINDRA NATH,
RESIDENT OF VILLAGE- SONAIKOLA,
P.O.- SONAIKOLA (BIJNI),
DIST.- CHIRANG, BTR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ASSAM EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-6,
ASSAM.

2:THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
REPRESENTED BY THE CHAIRMAN CUM CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM

DISPUR
GUWAHATI-06.

3:THE DISTRICT LEVEL SELECTION COMMITTEE (DLSC)
REPRESENTED BY PRINCIPAL SECRETARY
BTC

KOKRAJHAR
PIN- 783370
ASSAM.

4:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR- 783370

ASSAM.

5:THE DEPUTY INSPECTOR OF SCHOOLS

BIJNI
CHIRANG
BTC
ASSAM.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KAJALGAON
CHIRANG
BTC

ASSAM

Advocate for the Petitioner : MS. S DOLEY

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03.05.2023

Heard Ms. S Doley, learned counsel for the petitioner and Mr. P K Bora, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent No. 1. Also heard Mr. G Bokalia, learned Government Advocate, Assam for the respondent No. 2 as well as Mr. S Bora, learned Standing counsel, BTC for the respondent Nos. 3 to 6.

2. Father of the petitioner, Phanindra Nath, an Assistant Teacher of 707 Alengmari Lower Primary School in the district of Chirang, a provincialised elementary school of the State, died in harness on 28.04.2002.

3. The petitioner on 05.10.2002 submitted an application for his compassionate appointment under the Die-in-Harness Scheme of the State.

4. Though, earlier the case of the petitioner was placed before the District Scrutiny Committee (DSC) for compassionate appointment, District-Chirang, but his case was

rejected by the concerned DSC on 04.09.2010 and 26.03.2013.

5. Pursuant to the order of the Court dated 07.08.2009 passed in WP(C) No. 3200/2009, order dated 13.06.2012 passed in WP(C) No. 2443/2011 as well as order dated 09.12.2013 passed in WP(C) No. 7143/2013 that were preferred by the petitioner; the DSC for compassionate appointment, District-Chirang reconsidered the case of the petitioner for his compassionate appointment in its meeting held on 10.01.2014 and forwarded his case for compassionate appointment to the State Level Committee (SLC) for compassionate appointment.

6. The SLC for compassionate appointment in its meeting held on 16.06.2016 rejected the case of the petitioner on the ground of lack of vacancy.

7. Since June, 2016 as the case of the petitioner was not considered by the SLC for his compassionate appointment, the petitioner has preferred this writ petition.

8. The recommendation of the DSC for compassionate appointment, District-Chirang dated 10.01.2014 is silent as to against which post, whether Grade-III or Grade-IV it considered and recommended the name of the petitioner.

9. Further, the minutes of the SLC for compassionate appointment dated 16.06.2016 rejecting the case of the petitioner on the ground of lack of vacancy is also found to be silent as to against which post, whether Grade-III or Grade-IV post, the case of the petitioner was rejected due to lack of vacancy.

10. Considering his age as 39 years in April, 2023 as per the affidavit annexed to this writ petition, the petitioner's birth year can be considered as 1984 and he applied for his compassionate appointment on 05.10.2002 when he was about 18 years and certainly he was not a graduate at that relevant time.

11. The petitioner has also not annexed any certificate regarding his educational qualification nor stated against which post he applied for his compassionate appointment, whether Grade-III or Grade-IV.

12. After hearing the learned counsels for the parties and considering the entire aspect of the matter, the decision of the SLC dated 16.06.2016 in regard to the case of the petitioner

for compassionate appointment is hereby set aside and quashed.

13. Petitioner shall submit the certified copy of this order and a copy of this writ petition including the annexures appended thereto, before the Secretary to the Government of Assam in the Department of School (Elementary) Education forthwith, i.e., on or before 20.05..2023, obtaining necessary acknowledgment from the said authority in that regard.

14. In the event of receipt of certified copy of this order and the copy of this petition from the petitioner as directed above within the time so specified, the Secretary to the Government of Assam in the Department of School (Elementary) Education is directed to place the case of the petitioner before the next meeting of the SLC for compassionate appointment to consider his case for compassionate appointment against Grade-IV post in accordance with law in terms of the Office Memorandum No. ABP. 50/2006/Pt/182 dated 01.06.2015 and in terms of the directions of the Court issued earlier vide order dated 07.08.2009 passed in WP(C) No. 3200/2009, order dated 13.06.2012 passed in WP(C) No. 2443/2011 as well as order dated 09.12.2013 passed in WP(C) No. 7143/2013.

15. Thereafter, the said SLC for compassionate appointment shall intimate the petitioner about the outcome of its consideration regarding his appointment on compassionate ground.

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

JUDGE

Comparing Assistant