

GAHC010094072023



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

Case No. : WA/400/2023

SUCHITRA DAS
S/O- LT. DURLAV CHANDRA DAS, R/O VILL.- MACHARHA, P.O., P.S. and
DIST.- JORHAT, ASSAM, PIN- 785001.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY, GOVT. OF ASSAM, DISPUR, GUWAHATI- 6.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION DEPTT.
DISPUR
GUWAHATI- 6.

3:THE STATE LEVEL COMMITTEE
REP. BY THE CHAIRMAN / CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI- 6.

4:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
DEPTT. OF FINANCE
DISPUR
GUWAHATI- 6.

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

6:THE INSPECTOR OF SCHOOLS

JORHAT DISTRICT CIRCLE
JORHAT
PIN- 785001

Advocate for the Petitioner : MR. S B PRASAD

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 19.10.2023
(Kardak Ete, J)

Heard Mr S.B. Prasad, learned counsel for the appellant. Also heard Mr. M.D. Borah, learned Government Advocate appearing for the State respondents.

2. This intra-Court writ appeal is directed against the order dated 31.03.2023, passed by the learned Single Judge in WP(C) No. 3750/2016, whereby the writ petition of the appellant praying for a direction for appointment on compassionate ground has been dismissed.

3. The case projected by the appellant/writ petitioner is that the father of the appellant/writ petitioner Late Durlav Chandra Das, who was working as Upper Division Assistant in Gitarthi Girls High School, Jorhat, Assam had died-in-harness on 27.04.2004. The appellant/writ petitioner submitted an application for compassionate appointment which was forwarded to the concerned authorities vide letter dated 26.07.2005. The Deputy Secretary to the Government of Assam directed the appellant to re-submit the application in the prescribed format. Accordingly, application was re-submitted in the proper format. The District Level Committee (DLC) has recommended the name of the

appellant/writ petitioner. However, the State Level Committee (SLC) has rejected the application on the ground that the application was submitted belatedly, against which the appellant approached this Court by filing the writ petition No. 2067/2010 and same was disposed of vide order dated 19.11.2010 directing the State Level Committee (SLC) to consider the case of the petitioner and to pass appropriate order.

2. Thereafter, the respondent authorities in its State Level Committee (SLC) meeting held on 08.02.2011 once again rejected the case of the petitioner for compassionate appointment on the ground that the case of the petitioner has lost its merit.

3. Being aggrieved, the appellant/writ petitioner approached this Court again by filing writ petition being WP(C) No.3750/2016 assailing the aforesaid rejection.

4. The learned Single Judge vide impugned order dated 31.03.2023 has dismissed the writ petition on the ground that once the District Level Committee (DLC) or State Level Committee (SLC) considered and rejected the application for appointment on compassionate ground, there cannot be repetitive consideration of the application of the appellant/writ petitioner on compassionate ground which relates to the period of 2004-2005 and once the application of the appellant/writ petitioner is considered and rejected the application is deemed to have been disposed of and would not survive for fresh consideration notwithstanding the application was made in the appropriate format. Hence, the present appeal.

5. Mr. S.B. Prasad, learned counsel for the appellant/writ petitioner submits that the learned Single Judge has failed to appreciate the fact that the petitioner had applied for appointment on compassionate ground within a stipulated time frame. But since, the appellant/writ petitioner was asked by the authority to submit the application in the prescribed format there is no question of delay on the part of the appellant/writ petitioner in filing his application. Further, the finding of the Hon'ble Single Judge to the effect that the District Level Committee (DLC) has rejected the candidature of the appellant/writ petitioner is not correct as there was no such rejection by the DLC.

6. Mr. S.B. Prasad, learned counsel further submits that Hon'ble Single Judge has come to a wrong conclusion that once the application of the petitioner is rejected, the application is deemed to have been disposed of and would not survive for fresh consideration notwithstanding that the application was made again in the proper format. He submits that the case of the appellant was considered and approved by the District Level Committee (DLC), however, the State Level Committee (SLC) has rejected the case of the petitioner without any reason. In that view of the matter, the impugned order dated 31.03.2023 is liable to be set aside and quashed and prays for a direction to the respondent authority to reconsider the candidature of the appellant/writ petitioner and appoint him on compassionate ground on any post(s) commensurate with his education qualification.

7. Mr. M.D. Borah, learned Government Advocate Assam appearing on behalf of the State respondents submits that the case of the appellant has been duly considered and same has been rejected by the competent authority. After such consideration on merit if the case of the appellant/writ petitioner is rejected,

there is no question of reconsideration. Therefore, the learned Single Judge has rightly dismissed the writ petition.

8. We have carefully considered the submissions advanced by the learned counsel for the parties and the materials available on record.

9. It transpires that the father of the appellant Late Durlav Chandra Das, while working as Upper Division Assistant in Gitarhi Girls High School, Jorhat, Assam, had died-in-harness on 27.04.2004. The appellant had applied for appointment on compassionate ground on 13.12.2004 before the Inspector of School, Jorhat District Circle, Jorhat. The Inspector of School, Jorhat District Circle vide letter dated 24.03.2009 forwarded the minutes of the District Level Committee (DLC) meeting held on 29.12.2008, wherein the name of the appellant/writ petitioner was recommended to the Director of School Education, Government of Assam for appointment on compassionate ground under Jorhat District Circle. The State Level Committee (SLC) vide its meeting dated 28.01.2010 has rejected the case of the appellant/writ petitioner on the ground that the application of the writ appellant was submitted beyond period prescribed under the scheme without any valid ground. Against the said rejection order, the appellant/writ petitioner had filed writ petition being WP(C) No. 2067/2010 and the said writ petition was disposed of providing The State Level Committee (SLC) to examine the case of the petitioner strictly in terms of the guidelines and to pass a reasoned order.

10. The State Level Committee (SLC) vide its minutes of the meeting dated 18.02.2016, after examining all the records, rejected the case of the appellant/writ petitioner on the ground that the appellant has not submitted application within the stipulated time and that it has lost its merit for compassionate appointment in as much as the death of the father of the

appellant/writ petitioner was on 27.10.2004.

11. We find that the appellant/writ petitioners' father had died-in-harness in the year 2004 and the respondents authorities have considered the case of the petitioner from time to time and rejected the same. In the process, there is a delay of 12(twelve) years. The learned Single Judge has rightly held that once the application of the petitioner has been considered and rejected, the application is deemed to have been disposed of and would not survive for a fresh consideration, notwithstanding that the application was made again in the appropriate format. Moreover, it appears that when the application of the appellant/writ petitioner was initially taken up, there was no vacancy available for the post of LDA for which the appellant had sought for appointment under compassionate appointment scheme.

12. This Court in the case of *Dhanjit Das Vs. State of Assam and Ors, in Writ Appeal No. 120/2023* held that the family of the employee having survived for 14 (fourteen) years without difficulty, the highly belated claim for compassionate appointment made by the writ appellant could not have been entertained. Furthermore, the appellant therein had miserably failed to explain the delay of almost 8 (eight) years in filing the writ petition pursuant to alleged non consideration of her application dated 13.09.2013.

13. Law is well settled by catena of judgments rendered by the Hon'ble Supreme Court that compassionate appointment is a means of providing relief from immediate financial distress to the family of Government employee, who being the sole bread earner, dies-in-harness. This is a means to prevent the dependents of the employee from penury and to provide them immediate relief to tide over the sudden crisis that has befallen on the family due to demise of sole bread earner in the family.

14. In the present case also, there is a delay of 12(twelve) years from the death of the father of the appellant/writ petitioner. Besides that the case of the appellant has been considered on the merits. The grievance of the appellant/writ petitioner for alleging of improper consideration of his case cannot be considered at this distant point of time.

15. In view of the discussion made herein above and considering the settled position of law, we do not find any merit in the writ appeal and there is no any infirmity in the impugned order dated 31.03.2023 passed by the learned Single Judge in WP(C) No. 3750/2016.

16. In the result, writ appeal fails and is dismissed.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant