

GAHC010095852023



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

Case No. : WP(C)/2575/2023

ISMOTH TUFA LASKAR
D/O LATE AZIR UDDIN LASKAR (DIED IN HARNESS ON 19.11.2013 AS
KHALASI, GRADE -IV AT SILCHAR PHE DIVISION , CACHAR), R/O VILL-
SAIDPUR PART-I P.O SONABARIGHAT DIST- CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC HEALTH ENGINEERING DEPARTMENT, DISPUR,
GUWAHATI- 788006.

2:THE STATE LEVEL COMMITTEE
(FOR COMPASSIONATE APPOINTMENT) TO BE REPRESENTED BY THE
CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI- 788006.

3:THE DEPUTY COMMISSIONER CUM CHAIRMAN OF DISTRICT LEVEL
COMMITTEE (DLC)
CACHAR
P.O SILCHAR
DIST- CACHAR
PIN - 788001.

4:THE CHIEF EXECUTIVE ENGINEER

PHE (P)
ASSAM HENGRABARI
GUWAHATI
DIST. KAMRUP(METRO)
ASSAM

PIN- 781036.

5:THE ADDITIONAL CHIEF ENGINEER

PHE
BARAK VALLEY ZONE
SILCHAR
DIST- CACHAR
ASSAM
PIN - 788001

6:THE EXECUTIVE ENGINEER

(PHE) SILCHAR DIVISION NO.1
SILCHAR
DIST- CACHAR
ASSAM
PIN - 788001

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, P H E

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 24/07/2023

Heard Mr. B. Purkayastha, learned counsel for the writ petitioner. Also heard Ms. M. Kalita, learned Standing Counsel, PHE Department, Assam, appearing for the respondent nos. 1, 3, 5 & 6 and Mr. D. Bora, learned Government Advocate, Assam, appearing for the respondent nos. 2 & 3.

The facts of the case, in a nutshell, are that the father of the petitioner, viz. late Azir Uddin Laskar, while working as a Khalasi in the establishment of the Executive Engineer, PHE Department, Silchar, Cachar, Assam, died in harness on 19/11/2013 leaving behind his wife and 3 (three) daughters including the writ petitioner. Since the pre-mature death of late Azir Uddin Laskar took away the sole bread earner of the family, the writ petitioner herein had submitted an application dated 18/12/2013

seeking appointment on compassionate ground.

By the resolution adopted in the meeting of the District Level Committee (DLC), Cachar held on 05/08/2017, the application of the petitioner was rejected on the ground that 5% quota of vacancies meant to be filled up by way of compassionate appointment has already been exhausted. Assailing the resolution dated 05/08/2017, in so far as the same rejects the case of the petitioner, the instant writ petition had been filed on 09/05/2023, *inter-alia* alleging that the case of the petitioner for appointment on compassionate ground was not considered against the vacancies of other department as per clause-15 of the Government OM dated 01/06/2015.

Mr. Purkayastha, learned counsel for the petitioner submits that even if 5% quota in the PHE Department at Cachar was exhausted, even then, the authorities ought to have considered the application of the petitioner for appointment against any other department.

Ms. Kalita, learned Standing Counsel, PHE Department, on the other hand, submits that there were 25 posts in total, under the establishment of PHE in Cachar district and 5% of that would amount to 1.25 (posts) i.e. 2 posts. Two persons were absorbed against the aforesaid 2 posts and, therefore, there was no scope for accommodating the petitioner. Contending that the resolution dated 05/08/2017 has been put to challenge in the present proceeding instituted after six years, Ms. Kalita has prayed for dismissal of the writ petition on the ground of delay and laches. Similar is the stand of Mr. D. Bora, learned Government Advocate, Assam.

It is to be noted herein that the father of the petitioner died way back in the year 2013 and the application of the petitioner was rejected in the year 2017. However, the instant writ petition has been filed nearly six years thereafter. The only explanation furnished by the petitioner is that she was not aware of the resolution adopted by the DLC.

Be that as it may, if the petitioner was really keen to get employment on compassionate ground, than it was incumbent upon her to pursue the matter more diligently. Moreover, once the DLC

has taken a decision, which was in consonance of the provisions of the scheme, the aforesaid matter in the opinion of this Court, cannot be reopened at this point of time only to explore whether, other vacancies were available at the relevant point of time so as to consider the case of the petitioner, as such an approach, might lead to multiplicity of legal proceeding. Besides the above, the element of compassion, in the opinion of this Court, is also lost in the matter since the petitioner has evidently survived for more than 10(ten) years after the pre-mature demise of her father.

Considering the peculiar facts and circumstances of the case, as noticed above, this Court is of the opinion that the present is not a fit case where the impugned resolution of the DLC dated 05/08/2017 deserves to be interfered with.

Consequently, this writ petition is held to be devoid of any merit. The same is accordingly dismissed.

JUDGE

sukhamay

Comparing Assistant