

GAHC010105092023



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

Case No. : WP(C)/2794/2023

BIKASH BORUAH
SON OF LATE HEMUDHOR BORUAH RESIDENT OF NATUN NAGAR, WARD
NO 5, P.O AND P.S- DHEMAJI, DIST- DHEMAJI, PIN - 787057, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION(ELE) DEPARTMENT, ASSAM, DISPUR GUWAHATI-
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2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY -19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
NORTH LAKHIMPUR
PIN- 787001.

4:THE DEPUTY COMMISSIONER CUM CHAIRMAN OF DISTRICT LEVEL
COMMITTEE FOR COMPASSIONATE APPOINTMENT

LAKHIMPUR
DIST- LAKHIMPUR
ASSAM- 78700

Advocate for the Petitioner : MR. M K NEOG

Advocate for the Respondent : GA, ASSAM

**BEFORE
HON'BLE MR. JUSTICE UNNI KRISHNAN NAIR**

12.12.2023

Heard Mr. M.K. Neog, learned counsel for the petitioner and Mrs. D.D. Barman, learned Additional Senior Government Advocate, Assam for the respondent No.4.

2. The petitioner by way of the present proceeding has raised grievance with regard to non-consideration of his case for appointment on compassionate ground in a post commensurating with his educational qualification in spite of the fact that he had submitted his application in time with all requisite particulars. The father of the petitioner late Hemudhar Boruah died-in-harness on 31.12.2010 while he was serving as Assistant Teacher of Uttar Dhakuakhana M.E. School, Dhakuakhana. Thereafter, the petitioner had submitted his application on 21.02.2011 before the respondent No.3. As there was no communication with regard to the fate of the said application, the petitioner submitted application under the RTI Act seeking information. The RTI reply dated 10.01.2023 indicates that the petitioner's application was placed before the DLC in its meeting held on 10.08.2011, 21.04.2012 and 16.03.2013 but his case was not recommended. The said reply also brings on record the fact that the only the names of the recommended candidates were recorded in the minutes. However, there was no reason as to why the rejected candidates were not recorded in the minutes.

3. The respondent No.4 has filed affidavit in the matter bringing on record the minutes of the DLC meeting dated 10.08.2011, 21.04.2012 and 16.03.2013. It has been stated in the said affidavit that the DLC in its meeting held on

16.03.2013, had concluded that the two years period having expired, the petitioner's application had spent its force and required no further consideration. The records available in the matter, including the minutes of the DLC meeting reflects that the meeting held on 10.08.2011 and 21.04.2012 do not reflect that any consideration being made with regard to the application of the petitioner. There is no reference therein to the application submitted by the petitioner and the manner in which the same was taken up for consideration. Accordingly, in the meeting held on 16.03.2013 without any specific reference to the application of the petitioner, it was generally observed that only the applications received and falling within the stipulated two years period w.e.f. the date of making such application were considered. Accordingly, the application of the petitioner by that date, i.e. 16.03.2013 exceeded two years limit, was impliedly rejected.

4. The position with regard to consideration of an application for compassionate appointment and the procedure required to be maintained therein, has been settled by the decisions of this Court and the said decisions are still holding the field. There are also Office Memorandum/Notifications issued by the Government of Assam from time to time laying down the policy for appointment on compassionate ground and also the manner in which such consideration has to be made. The decisions of this Court as well as the policy of the government and the scheme prepared in pursuance thereof mandate that the applications for compassionate appointment at the first instance have to be considered on merits by the District Level Scrutiny Committee (DLSC) and thereafter, further process to be undertaken by the State Level Scrutiny Committee (SLSC) and other authorities. The said consideration cannot be an empty formality and should be done within the prescribed parameters.

Admittedly in the present case, I do not find any such consideration made by the DLSC and as such, the contention that the petitioner's application having remained unrecommended for a period of more than two years, and requires no further consideration, is not tenable and cannot be accepted.

5. In view of the said position, this writ petition is disposed of with the direction to the District Elementary Education Officer (DEEO), Lakhimpur to place the application already submitted by the petitioner before the DLSC within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order. The respondent jurisdictional District Level Scrutiny Committee for compassionate appointment shall, on receipt of such application of the petitioner from the DEEO, give its due consideration and on examination of the application in the light of the guidelines, come to a conclusion with regard to the claim of the petitioner. It is reiterated that the application of the petitioner shall not be rejected on the ground that the period of two years have already lapsed. It is expected that the DLSC shall consider the proposal in the manner it is required to do so and come to a conclusion thereon. The conclusion so arrived at shall be communicated to the petitioner in writing within a period of 10 (ten) days thereof. Further processing of the application of the petitioner for appointment on compassionate ground shall be so done basing on the decision that may be arrived at in the matter by the DLSC.

6. With the above observations, this writ petition stands disposed of.

No order as to costs.

