

GAHC010105782021



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

Case No. : WP(C)/3655/2021

DHRUBA KUMAR KALITA
S/O LATE RAJENDRA CH. KALITA @ RAJEN CH. KALITA
RESIDENT OF VILLAGE NO. 1, JAMBARI, PO JAMBARI, PS BOKO, DIST
KAMRUP R ASSAM, 781141

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY CUM CHAIRMAN OF THE
STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT, ASSAM,
DISPUR, GUWAHATI 06

2:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
SOIL CONSERVATION DEPARTMENT
DISPUR
GUWAHATI 06

3:THE DIRECTOR OF SOIL CONSERVATION ASSAM

R.G BARUAH ROAD
GUWAHATI 05

4:THE DIVISIONAL OFFICER
SONITPUR SOIL CONSERVATION DIVISION TEZPUR
DIST SONITPUR
ASSAM

5:THE DISTRICT LEVEL COMMITTEE

REPRESENTED BY THE DEPUTY COMMISSIONER CUM CHAIRMAN
SONITPUR

ASSA

Advocate for the Petitioner : MR. B RAHMAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 25-08-2023

Heard Mr. B. Rahman, learned counsel for the petitioner; Also heard Mr. J.K. Goswami, learned Additional Senior Government Advocate and Ms. R.S. Deuri, learned Standing Counsel for Soil Conservation Department appears for respondent Nos. 2, 3 and 4.

2. This writ petition is filed by the petitioner praying for consideration for compassionate appointment under the Die in Harness Scheme. Petitioner's father, who was serving as a Soil Conservation Demonstrator (Junior) under Sonitpur Soil Conservation Division, Tezpur had expired on 13.06.2005 while in service. Pursuant thereto, the petitioner filed an application seeking compassionate appointment. It is the submission of the learned counsel for the petitioner that his name was recommended by DLC in the year 2006-2007 and forwarded to the SLC. Since no order was passed he has approached this Court earlier by filing WP(C) No. 388/2012 seeking appropriate directions.

3. This Court vide order dated 18.05.2012 disposed of the writ petition directing the respondents to consider the case of the petitioner in the light of the judgment rendered in *Achyut Ranjan Das Vs State of Assam reported in 2006 4 GLT 674*. Meanwhile, the petitioner also obtained his graduation from Krishna Kanta Handique State Open University. Thereafter, the SLC in its meeting held on

18.12.2014 rejected the case of the petitioner on the ground that in view of his financial condition his case does not require consideration under the compassionate appointment Scheme. Aggrieved, the present writ petition has been filed.

4. Respondents Nos. 2, 3 and 4 has filed their affidavit, contesting the claims of the petitioner and an additional-affidavit has also been filed by the said respondents. Petitioner has also filed additional affidavit to bring on record certain documents. By the said additional affidavit a communication, dated 17.10.2022 is being brought on record to show the financial status between the petitioners vis-a-vis two other claimants. The petitioner has been shown to have received gratuity pension, GPF, family pension and as well as shown to be the land holders as compared to the other claimants.

5. The SLC by its meeting held on 01.12.2014 had considered the case of the petitioner and the following conclusion drawn by the SLC in its meeting are extracted below:

“(iii) The proposal of Sri Dhruba Kumar Kalita was discussed in the meeting. Hon’ble Gauhati High Court vide order dated 24.05.2012 in respect of WP(C) No. 388/2012 had directed the State respondents to examine the case of the petitioner in terms of the guidelines formulated in Achyut Ranjan Das Vs State of Assam and Others reported in 2006(4) GLT 674 and the Judgment dated 02.07.2010 passed in batch of writ petitions leading the case being 2620/09 (Fazirun Nesssa Vs State of Assam and Others)

Dhruba Kr. Kalita S/O Rajen Ch. Kalia SCD (Jr) Sonitpur SC Division (who died in harness on 13.06.2005) and applied on 18.08.2005 for appointment on compassionate ground. His application was taken up for consideration for the year, 2006 and then again for the year 2007.

The applicant Dhruba Kr. Kalita had requisite educational qualification of passing the HSSLC Examination, and was otherwise eligible except having better financial condition than the applicants. Sri Kapil Bora and Smti Bina Das who were recommended for the years 2006 and 2007 respectively.. The application of Sri Dhruba Kr. Kalia was ranked at Rank-3 and Rank-2 respectively in the year 2006 and 2007 and hence his application could not be considered by SLC because of having better financial condition than other eligible candidates and shortage of vacancy and hence rejected.”

6. The learned counsel for the parties have been heard and the materials available in record are carefully perused. It is seen that pursuant to the recommendation of the DLC, the petitioner’s case was considered by the SLC. The SLC has considered the financial status of the petitioner’s family and has taken a decision not to recommend the name of the petitioner in view of his financial status. Under this consideration, the petitioner’s application was listed at serial No.3, as compared to the other candidates.

7. The learned counsel for the petitioner has not been able to dispute this finding by bringing on record any documents to contend that these findings was not based on correct appreciation of the facts. The learned counsel for the petitioner has also not disputed the financial status shown as recorded in the communication dated 17.10.2023 issued by the Department of Soil Conservation, Assam. The only prayer made by the learned counsel for the petitioner is that vacancy being available, petitioner’s case should be remanded back to SLC for being reconsidered again by the SLC.

8. Such submissions made cannot be accepted in view of the law laid down in *Achyut Ranjan Das Vs State of Assam reported in 2006 4 GLT 674*), *Fazirun Nesssa*

Vs State of Assam and Others reported in 2010 (4) GLT 340 and all other judgments and orders, passed by this Court read with the OM prevalent at the relevant point of time as well as the OM No. 83, dated 15.06.2015, which was issued superseding earlier OMs laying down, the guidelines for consideration of the case of compassionate appointment.

9. Unless it is disputed by the petitioner that the facts placed on record and the position reflected stated to be based on record is not correct or that the petitioner's case was not considered in terms of the provisions of the OM No. 83 as well as in terms of the judgment of this Court rendered in *Achyut Ranjan Das (Supra)* and *Fazirun Nesssa (Supra)*, no case is made out for issuance of any direction or orders by this Court. In view of the above, the present petition stands dismissed as being devoid of any merit.

10. Interim order if any, stands vacated. However, liberty is granted to the petitioner to approach this Court, if any of the findings arrived by the department is found to be incorrect.

11. In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant