

GAHC010106532023



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

Case No. : WP(C)/2815/2023

SAILENDRA KUMAR BARUAH
SON OF LATE TARINI KANTA BEZBARUAH, ADDRESS- NABAMILAN PATH,
BORBARI, HENGRABARI, GUWAHATI-36, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI.

2:THE CHAIRMAN
STATE LEVEL COMMITTEE

DISPUR
ASSAM.

3:THE CHAIRMAN - CUM - DEPUTY COMMISSIONER

DISTRICT LEVEL COMMITTEE
KAMRUP(M)
ASSAM.

4:THE DIRECTOR OF HEALTH SERVICES (FAMILY AND WELFARE)
DEPARTMENT

HENGRABARI
GUWAHATI.

5:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT

DISPUR
ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 22-05-2023

Heard Mr. K.D. Sarma, learned counsel appearing for the writ petitioner. Also heard Mr. D. Upamanyu, learned standing counsel, Health Department, Assam appearing for the respondent Nos. 1 and 4, Mr. H. Sarma, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondent Nos. 2 and 3 and Mr. P. Nayak, learned standing counsel, Finance Department, Assam appearing on behalf of the respondent No. 5.

The father of the petitioner died in harness on 02-10-2011 while serving as Sub-Inspector of Statistics under the Directorate of Health Services. After the death of his father, the petitioner had submitted an application dated 19-11-2011 seeking appointment on compassionate ground. The District Level Committee (DLC) had initially recommended the case of the petitioner for appointment in a Gr-III post but by the resolution adopted in the meeting dated 27-11-2015, the State Level Committee (SLC) had rejected the prayer of the petitioner on the ground of want of vacancy. Thereafter, on 24-04-2017, the petitioner was intimated about the decision of the SLC by a speaking order. Assailing the minutes of the meeting dated 27-11-2015 as well as the speaking order dated 24-04-

2017, the present writ petition has been filed.

What is to be noted herein that the scheme for appointment on compassionate ground has been framed by the Govt. so as to provide immediate relief to the family members of the deceased Govt. employee who would plunge into a financial crisis due to the premature and sudden demise of the Govt. servant. Law is firmly settled that the scheme for appointment on compassionate ground does not confer any indefeasible right to any person to claim employment to the Govt. job but it is a measure to provide immediate relief to the family members of the deceased Govt. servant which has lost the sole bread earner.

In the present case, the father of the petitioner died in the year 2011 and his application seeking compassionate appointment was rejected by the SLC on 27-11-2015. The petitioner had admittedly learnt about the decision of the SLC in the year 2017. However, the present writ petition has been filed in the year 2023, after a lapse of more than 05 years. Explanation for the delay, as furnished by the petitioner's counsel, is not at all convincing. If the petitioner could survive for 12 long years after the demise of his father, there is no reason for this Court to believe that unless compassionate appointment is provided to the petitioner he and his family members would not be able to survive. Under the circumstances, this Court does not find any good ground to entertain this writ petition. Conversely this writ petition is found to be hit by the principles of laches, negligence and delay. More over the scheme for appointment on compassionate ground has also been discontinued by the State Govt. since the year 2017. As such, no mandamus would lie at this stage, directing the respondents to appoint the petitioner on

compassionate ground.

For the reasons stated hereinbefore, this writ petition is held to be devoid of any merit and the same is accordingly dismissed.

JUDGE

GS

Comparing Assistant