

GAHC010051462022



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

Case No. : WP(C)/4517/2022

KAMAL GOHAIN
S/O LATE KULESWAR GOHAIN
R/O VILL-CHINAI GOHAIN GAON
P.O. AND P.S.-GHILAMARA
DIST-LAKHIMPUR
ASSAM
PIN-787053

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-05
ASSAM

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM

KAHILIPARA
GUWAHATI-19

3:THE DEPUTY COMMISSIONER
LAKHIMPUR
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
DIST-LAKHIMPUR
ASSAM

Advocate for : DR. B N GOGOI

Advocate for : SC
ELEM. EDU appearing for THE STATE OF ASSAM AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

02.02.2023

Heard Dr. B N Gogoi, learned counsel for the petitioner and Mr. P N Sarma, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1, 2 & 4. Also heard Ms. D Das Barman, learned Government Advocate, Assam for the respondent No. 3.

It is stated by the petitioner that his father, Kuleswar Gohain, an Assistant Teacher at Ghilamara Town High School, District-Lakhimpur died in harness on 01.03.2009 and that he applied for his compassionate appointment as an Assistant Teacher in Lower Primary School within the stipulated time in terms of the Office Memorandum No. ABP50/2006/Pt/182 dated 01.06.2015 of the State Government in the Personnel (B) Department.

As the case of the petitioner for his compassionate appointment has not been considered, he approached the authorities concerned. During such approach, he came to know that the Additional Deputy Commissioner, Lakhimpur by communication No. LPE.5/2022/2 dated 07.03.2022 informed all the Heads of the Departments including the District Elementary Education Officer, Lakhimpur, North-Lakhimpur informing that the meeting of the District Level Committee for the purpose of appointment on compassionate ground shall be held after the U.L.B (Urban Local Bodies) Election, 2022 and by the said letter the Additional Deputy Commissioner, Lakhimpur requested the District Elementary Education Officer (DEEO), Lakhimpur to submit the pending proposals prior to 01.04.2017, if any, along with vacancy positions of Grade III and Grade IV to him within the stipulated time.

On perusal of the Annexures appended to the additional affidavit file by the petitioner on 21.12.2022, it is seen that after the death of his father, on 28.04.2009 he

submitted his application for compassionate appointment before the Inspector of Schools, Lakhimpur District Circle, Lakhimpur through the Headmaster of said Ghilamara Town High School, District-Lakhimpur, as per the format at the relevant point of time.

It is also seen that the Headmaster of said Ghilamara Town High School on 27.04.2009 duly forwarded the application of the petitioner to the Inspector of Schools, Lakhimpur, North-Lakhimpur, which was duly received by the Inspector of Schools, Lakhimpur on 23.10.2009.

In this regard, the petitioner has relied on the decisions in the case of *N.C. Santoshi -Vs- State of Karnataka*, reported in (2020) 7 SCC 617 and in the case of *Malaya Nanda Sethy -Vs- State of Orissa & Ors.* (Civil Appeal No. 4103/2022).

Considering the above, the Court is of the view that if in the meanwhile, the case of the petitioner has not been placed before the District Level Committee for compassionate appointment, District-Lakhimpur by the Inspector of Schools, Lakhimpur District Circle, Lakhimpur, the said authority shall do the needful to place the case of the petitioner before the next meeting of the DLC for compassionate appointment, Lakhimpur, intimating the petitioner about the outcome of the same.

It is also made clear, in the meanwhile, if the case of the petitioner had been considered by the DLC for compassionate appointment, District-Lakhimpur, the petitioner shall be intimated about its said decision.

The respondent authorities, while considering the case of the petitioner for his compassionate appointment shall comply with the decisions of this Court in the cases of *Achyut Ranjan Das & Ors -Vs- State of Assam and Ors*; reported in 2006 (4) GLT 674, *Faziron Nessa and Ors. -Vs- State of Assam and Ors*; reported in 2010 (4) GLT 340, *Ajit Pator & Ors. -Vs- State of Assam and Ors*; reported in 2009 (3) GLT 306 and other relevant Office Memorandum of the State Government regarding compassionate appointment.

The petitioner shall submit the certified copy of this order, copy of this writ petition including the Annexures appended thereto, copy of the affidavit filed in this

petition including the Annexures appended thereto before the Inspector of Schools, Lakhimpur District Circle, Lakhimpur forthwith, obtaining necessary acknowledgment from the said authority in that regard.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant