

GAHC010112892022



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

Case No. : WP(C)/3924/2022

MOLLIKA BEGUM LASKAR
W/O- LATE RAFIQUE JAMAL LASKAR,
VILL- BHATIRKUPA PART III,
P.O- BHATIRKUPA, PIN-788152,
P.S AND DIST- HAILAKANDI

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR, GUWAHATI-781006

2:THE DIRECTOR
OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE DEPUTY COMMISSIONER
HAILAKANDI CUM CHAIRMAN OF THE DISTRICT LEVEL COMMITTEE
HAILAKANDI

P.O
P.S
AND DIST- HAILAKANDI

PIN-788151

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI

P.O
P.S
AND DIST- HAILAKANDI

PIN-788151

5:THE DEPUTY INSPECTOR OF SCHOOLS
HAILAKANDI

P.O
P.S
AND DIST- HAILAKANDI

PIN-788151

6:THE DISTRICT LEVEL COMMITTEE
HAILAKANDI
TO BE PRESENTED BY ITS CHAIRMAN (DEPUTY COMMISSIONER
HAILAKANDI)

P.O
P.S
AND DIST- HAILAKANDI

PIN-78815

Advocate for the Petitioner : MR. R A CHOUDHURY

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 16-10-2023

Heard Mr. R.A. Choudhury, learned counsel for the petitioner. Also heard Ms. S. Chutia, learned counsel for the Elementary Education Department of Government of Assam and Mr. P. Saikia, learned Junior Government Advocate for the Deputy Commissioner, Hailakandi.

2. The husband of the petitioner Rafique Jamal Laskar who was an Assistant

Teacher in the Sharaspur Pahartali L.P. School in the Hailakandi district died in harness on 19.07.2010 and on his death the petitioner submitted an application for compassionate appointment on 13.09.2010. As the application of the petitioner was not given its consideration, WP(C)No. 7563/2013 was instituted which was given a final consideration by the order dated 03.01.2014 requiring the application to be placed before the concerned authority as per law meaning thereby before the concerned DLC of district concerned.

3. The order impugned dated 11.10.2021 by the Deputy Commissioner, Hailakandi shows that the application was placed before the DLC in its meeting of 05.10.2021 but was rejected on the ground that the employee died on 19.07.2010 and the application was made on 20.08.2011 i.e. after a period of one year.

4. It is noticed that the Annexure-3 to the writ petition shows that the application is dated 13.09.2010 and it is well within the period of the date of death. No relevant material is available as to what application was considered by the DLC in order to be recorded that the application is dated 20.08.2011 and therefore, liable to be rejected on the ground of being submitted after the period of one year.

5. Without going to the said question, we have noticed that in the earlier proceeding the said stand was not taken by the respondents and there is a direction of the Court to place the application to be considered on its own merit. From such point of view, the DLC would be precluded from rejecting the application by taking a stand that it was submitted after a period of one year. Moreover, it is no longer a *res-integra* that the requirement to submit an application within one year is a directive requirement and not a mandatory requirement and it by itself cannot be a reason to reject an application.

6. Considering both the aspects, the rejection by the DLC in its meeting of 05.10.2021 is set aside and remanded back to the DLC to consider the application of the petitioner of compassionate appointment on its own merit and as per law, to be placed before the next available DLC.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant