

GAHC010116022023



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

Case No. : WP(C)/3090/2023

PANCHALA MOHAN GIRI
WIFE OF LATE PARESH MOHAN,
RESIDENT OF SARKARI BAGAN,
P.O. AND P.S.- HAFLONG,
DISTRICT- DIMA HASAO (N.C. HILLS),
ASSAM, PIN 788819.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE STATE LEVEL COMMITTEE
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR
GUWAHATI- 781006.

3:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
ANIMAL HUSBANDRY AND VETERINARY DEPTT.
ASSAM
CHENIKUTHI
GUWAHATI- 781003

DISTRICT- KAMRUP(M)
ASSAM.

4:THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT

ASSAM
CHENIKUTHI
GUWAHATI- 781003

DISTRICT- KAMRUP(M)
ASSAM.

5:THE ADDL. DIRECTOR
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT (HILLS)
HAFLONG.

6:THE DEPUTY COMMISSIONER CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE
FOR SELECTION AND APPOINTMENT ON COMPASSIONATE GROUND FOR
DIMA HASAO DISTRICT

DISTRICT DIMA HASAO
ASSAM.

7:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER
DIMA HASAO
ASSAM.

8:THE COMMISSIONER AND SECRETARY TO THE PERSONAL (B)
DEPARTMENT
DISPUR
GUWAHATI- 781006

DISTRICT- KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. A CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 31/05/2023

Heard Mr. S. Islam, learned counsel appearing for the writ petitioner. Also heard Mr. A. Chakraborty, learned Government Advocate, Assam, appearing for the respondent nos. 2, 6 & 8 and Ms. M.M. Kataki, learned Standing Counsel, Animal Husbandry & Veterinary Department, Assam,

appearing for the respondent nos. 1, 2, 4 & 5.

Being aggrieved by non-consideration of his case for appointment on compassionate ground, the petitioner has approached this Court for the second time by filing the instant writ petition.

The facts of the case, in a nutshell, is that the petitioner's husband, viz. Paresh Mohan had died in harness on 15/08/2009 while serving as a Lower Division Assistant (LDA) in the office of the Additional Director of Animal Husbandry and Veterinary Department (Hills), Haflong. After the sudden demise of the sole bread earner of the family, the petitioner submitted an application for appointment on compassionate ground against a Grade-IV post. The application submitted by the petitioner was recommended by the District Level Committee (DLC) of Dima Hasao District, Haflong, vide its resolution dated 23/08/2011. However, the application of the petitioner was rejected by the State Level Committee (SLC) in its meeting held on 30/12/2015. Being aggrieved, the petitioner had earlier approached this Court by filing WP(C) 6077/2021.

The learned Single Judge had disposed of WP(C) No. 6077/2021 by order dated 17/11/2021 permitting the petitioner to submit a representation with a direction upon the respondents to consider her representation in terms of paragraph 15 of the OM dated 01/06/2015, which permits the authorities to consider the application for compassionate appointment against vacancies in other departments if such vacancies are not available in the parent department. The learned Single Judge had, however, noted that there was delay on the part of the petitioner in approaching this Court.

Pursuant to the order dated 17/11/2021, the petitioner had submitted a fresh representation. However, no action has been taken on such representation. Hence, this writ petition.

Mr. Chakraborty, learned Government Advocate, Assam, submits that the case of the petitioner is hit by delay and laches. Moreover, application submitted in the year 2009 for compassionate appointment and recommendation made by the DLC in the year 2011 cannot be considered at this point of time.

What is to be noted herein that the scheme framed by the Government of Assam for appointment on compassionate ground was aimed at providing immediate relief to the family members of the deceased Government employee which had lost its sole bread earner. The "Died in Harness" scheme does not confer any indefeasible right upon the family member of the deceased employee to seek employment in a Government job. In the present case, as noted above, the husband of the petitioner had died in the year 2009 and her application for appointment on compassionate ground had been rejected by the SLC in the year 2015 on the ground of want of vacancy. Therefore, at this point of time, the petitioner's application cannot be considered against

current vacancies since in the meantime, right of a number of new applicants to be considered for appointment against those vacancies would have been created.

Moreover, the scheme of compassionate appointment floated by the Government of Assam had also been withdrawn way back on 14/09/2017. Therefore, when the order dated 17/11/2021 was passed by the learned Single Judge, the scheme was not even in force. Under the circumstances, the question of considering the petitioner's representation for appointment on compassionate ground can not arise in the eyes of law.

In view of the reasons recorded herein above, this Court is of the opinion that there is no merit in the writ petition. The same is accordingly dismissed.

JUDGE

sukhamay

Comparing Assistant