

GAHC010118132022



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

Case No. : WP(C)/4413/2022

RANADHIR ADHIKARY
S/O. LT. PURNENDU ADHIKARY, VILL. JHAPUSABARI, PART-II, P.O.
JHAPUSABARI, P.S. AGOMANI, DIST. DHUBRI, ASSAM, PIN-783335.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY SECRETARY TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DHUBRI CIRCLE
DHUBRI
P.O. AND P.S. DHUBRI
ASSAM
PIN-783301.

4:THE DEPUTY INSPECTOR OF SCHOOLS

DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN-783301.

5:THE DEPUTY COMMISSIONER CUM CHAIRMAN

DISTRICT LEVEL COMMITTEE
DHUBRI
P.O. AND P.S. DHUBRI
ASSAM
PIN-783301.

6:THE STATE LEVEL COMMITTEE

REP. BY ITS CHAIRMAN
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. S UPADHAY

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

26.04.2023

Heard Mr. S Upadhay, learned counsel for the petitioner and Mr. P K Bora, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 4. Also heard Mr. G Pegu, learned Government Advocate, Assam for the respondent Nos. 5 & 6.

2. Father of the petitioner, who was an Assistant Teacher of Baruapara Government M.V. School in the district of Dhubri, died in harness on 25.02.2012.

3. Petitioner on 17.05.2012 applied for his compassionate appointment under the Die-in-Harness Scheme of the State.

4. As the respondent authorities did not consider his case for compassionate appointment, the petitioner preferred a writ petition being WP(C) No. 671/2015.

5. The Court by order dated 03.05.2017 disposed of said WP(C) No. 671/2015 directing the District Elementary Education Officer, Dhubri to place the case of the petitioner before the next meeting of the District Level Committee (DLC) for

compassionate appointment, District-Dhubri, directing the DLC, Dhubri to give due consideration to the case of the petitioner in terms of the law laid down by this Court in the case of *Achyut Ranjan Das* and *Faziron Nessa*.

6. While the case of the petitioner was pending for consideration before the Court in said WP(C) No. 671/2015, the DLC, Dhubri on 26.05.2016 after considering the case of the petitioner for his compassionate appointment, rejected the same on the ground that the matter was pending since more than two years.

7. Being aggrieved with the said decision of the DLC, Dhubri dated 26.05.2016, the petitioner preferred another writ petition being WP(C) No. 1554/2018, which was disposed of on 19.03.2018 in which the Court set aside the decision of the DLC, Dhubri dated 26.05.2016 passed against the petitioner rejecting his compassionate appointment and directed the DLC, Dhubri to consider the case of the petitioner afresh in its next meeting on its own merits and to pass a reasoned order thereon.

8. Since the respondent authorities, particularly in the DLC for compassionate appointment, District-Dhubri did not take any decision regarding the claim of the petitioner for his compassionate appointment, the petitioner has preferred this writ petition.

9. The claim of the petitioner is for appointment on compassionate ground for the post of Assistant Teacher or any Grade-IV post under the District Elementary Education Officer, District-Dhubri.

10. During the deliberation of the matter, Mr. G Pegu, Government Advocate, Assam placed before the Court the minutes of the DLC for compassionate appointment, District-Dhubri dated 28.12.2021 and 24.01.2022.

11. Pursuant to the order of the Court dated 19.03.2018 passed in WP(C) No. 1554/2018, the case of the petitioner was placed before the DLC, Dhubri on 28.12.2021 and the said DLC kept the case of the petitioner in abeyance due to non-availability of 5% vacancy on compassionate ground with the observation that his case will be taken up for consideration again in the next available DLC after getting the clear picture of the vacancy position from the other departments.

12. The case of the petitioner was again taken up for consideration by the DLC for compassionate appointment, District-Dhubri on 24.01.2022.

13. The DLC for compassionate appointment, District-Dhubri after considering the case of the petitioner, whose case could not be considered earlier on 28.12.2021 due to lack of 5% vacancy on compassionate ground, found that even on this time the case of the petitioner cannot be considered as there is lack of vacancy. Accordingly, the said DLC rejected the claim of the petitioner for his compassionate appointment due to non availability of vacancy and pending for more than two years.

14. Since the DLC for compassionate appointment, District-Dhubri after due verification rejected the case of the petitioner for his compassionate appointment on 24.01.2022, this writ petition being devoid of merit, stands dismissed.

15. Copy of the minutes of the DLC for compassionate appointment, District-Dhubri dated 28.12.2021 as well as 24.01.2022 placed before the Court by Mr. Pegu, Government Advocate, Assam be kept as part of the records.

JUDGE

Comparing Assistant