

GAHC010120142015



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

Case No. : WP(C)/5105/2015

BINDESWAR RABHA
S/O- LT. KANU RAM RABHA, VILL. and P.O.- BHALUKDUBI, P.S. and DIST.-
GOALPARA, ASSAM, PIN- 783101.

VERSUS

THE CHIEF GENERAL MANAGER and 3 ORS,
LAEDCL, GOALPARA ELECTRICAL DIVISION, ASEB, GOALPARA- 783101.

2:THE ASSTT. GENERAL MANAGER
LAEDCL
GOALPARA ELECTRICAL DIVISION
ASEB
GOALPARA- 783101.

3:THE EXECUTIVE ENGINEER
GOALPARA ELECTRICAL DIVISION
ASEB
GOALPARA- 783101.

4:THE DY. GENERAL MANAGER
BONGAIGAON ELECTRICAL CIRCLE
LAEDCL
BONGAIGAON- 783380

Advocate for the Petitioner : MR.R BAISHYA

Advocate for the Respondent : SC, A S E B

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

19.12.2023

1. Heard Mr. S. R. Rabha, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel for the APDCL.
2. The present writ petition under Article 226 of the Constitution of India is filed assailing that the petitioner has been illegally, arbitrarily and unreasonably denied appointment on compassionate ground inasmuch as the father of the petitioner who was employed as Chowkidar under the Goalpara Electrical Division, LAEDCL, Goalpara expired on 24.06.2012.
3. According to the petitioner, due to sudden demise of father of the petitioner, the state of the entire family had become pitiable as there was no source of income. Accordingly, the petitioner approached the APDCL authority and duly applied before the APDCL for appointment on compassionate ground through his application dated 30.11.2012 addressed to the Assistant General Manager, LAEDCL, Goalpara Division, Goalpara.
4. Though such application was forwarded by the Assistant General Manager to the Deputy General Manager, Bongaigaon Electrical Circle, LAEDCL, Bongaigaon, however, his case was not considered by the respondent authorities. It is the case of the petitioner that he is entitled for compassionate appointment in terms of Office Memorandum dated 09.09.1983 issued by the Government of Assam, Personnel Department.
5. Per contra, Mr. Choudhury, learned Standing Counsel for the APDCL submits

that the APDCL is a Company incorporated under the Electricity Act, 2003 and they are having their own policy of compassionate appointment and in terms of said policy issued on 30.04.2005, only the family of those serving employees killed due to extremist violence while on duty or the family of those employees whose deaths are caused due to accident or mishap while on duty are only eligible for compassionate appointment.

6. Therefore, the case of the petitioner for compassionate appointment could not be considered as he did not satisfy the parameters as laid down in the aforesaid policy inasmuch as he was attending his duty till 20.06.2012 and thereafter remained in his residence due to illness and died on 24.06.2012.
7. In terms of this Court's order dated 20.02.2020, the respondent had filed an additional affidavit-in-opposition, wherein a specific stand was taken that the Office Memorandum dated 09.09.1983 is applicable to State Government employees only and same is not followed and not adopted by the respondent APDCL as they are having their own scheme of compassionate appointment.
8. It is seen that the father of the petitioner expired on 24.06.2012 due to illness and there is no material or record to show that such illness is attributable to any terrorist violence or attributable to any accident or mishap while on duty. Compassionate appointment is to be made in terms of the scheme under which such appointment is claimed. It is not a mode of regular appointment. That being the position, in the backdrop of the admitted fact that the father of the petitioner was neither killed due to extremist violence while on duty nor the death was caused due to accident or mishap, this Court cannot issue a writ or direction even for consideration of the case of the petitioner, not to say about any direction for appointment under the scheme of compassionate appointment formulated by the employer.

9. In view of the aforesaid, the present writ petition stands dismissed. Parties to bear their own cost.

JUDGE

Comparing Assistant