

GAHC010124362021



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

Case No. : WP(C)/4107/2021

ISFAQUE AHMED
S/O LATE ARMAN ALI
RESIDENT OF VILLAGE BAMUNBARI, PO KALITAKUCHI, PS HAJO, DIST
KAMRUP(R) ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DEPUTY COMMISSIONER

KAMRUP (R) ASSAM
781039

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KAMRUP(R) ASSAM
781039

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

PAKHAMELA EDUCATIONAL BLOCK
BARPETA
HAJO
GUWAHATI ROAD

KAMRUP (R) ASSAM 78110

Advocate for the Petitioner : MD. S ALOM

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12-04-2023

Heard Mr. S. Alom, learned counsel for the petitioner and Mr. P. K. Bora, learned Standing Counsel, Department of School (Elementary) Education for the respondent Nos. 1, 2, 4 and 5. Also heard Mr. P. Saikia, learned Government Advocate, Assam for the respondent No.3.

Father of the petitioner, Arman Ali was a Headmaster of Karibil Lower Primary School in the Pakhamela Education Block of District- Kamrup, who died in harness on 16.04.2007, leaving behind his wife, 7 daughters and one son i.e., the petitioner, out of which the eldest daughter was major and the rest are minors.

After the death of his father, the mother of the petitioner submitted an application for her compassionate appointment before the Block Elementary Education Officer, Hajo, which was forwarded by the said authority on 23.07.2007 to the Deputy Inspector of Schools, Guwahati. However, the mother of the petitioner was not appointed on compassionate ground in spite of her application for the same.

It is submitted that the mother of the petitioner is receiving family pension.

At the time of death of his father, the petitioner was 11 years old and after passing his Higher Secondary Examination in Science in the year 2014 and on attaining the age of majority, he on 08.09.2020, submitted an application before the Block Elementary Education Officer, Hajo for consideration of his case for

compassionate appointment on the death of his father Arman Ali, who died in harness on 16.04.2007.

As his application for compassionate appointment has not yet been considered by the District Level Committee for compassionate appointment, District- Kamrup, petitioner has filed this writ petition on 13.08.2021 praying amongst others for a direction to the respondent authorities for his appointment in a suitable post in the Education Department on compassionate ground and to consider his representation dated 08.09.2020 submitted before the Block Elementary Education Officer, Hajo pertaining to his compassionate appointment.

Learned counsels for the respondents on the other hand submitted that compassionate appointment is not a matter of right and that the petitioner belatedly after more than 13 years on 08.09.2020 submitted an application for his appointment on compassionate ground on the death of his father, who died in harness on 16.04.2007.

Petitioner himself submitted that at the time of death of his father in the year 2007, he was 11 years old. As such, he attained the age of majority of 18 years in the year 2014, whereas, he filed his application for his compassionate appointment in the year 2020, i.e., 6 years after he attained the age of majority of 18 years.

It is well settled that – *the Compassionate Appointment is given as an immediate measure only to get over the death of the bread earner at that point of time and there cannot be any vested right on such appointment except that such consideration can only be done as per prevailing policy. After passage of long time, the sense of immediacy gets lost. The very raison d'être for giving compassionate appointment or compassionate benefit is lost once the immediacy has died down. Once the long time passed by, the compassionate element stands extinguished. A family who could survive for long years would not be entitled to any compassionate benefit since compassionate benefit is not a largesse nor it is a rule in the employment.*

For the reasons above, in exercise of the powers under Article 226 of the Constitution of India the case of the petitioner for his appointment on compassionate ground cannot be considered.

Accordingly, this writ petition, being devoid of any merit stands dismissed.

JUDGE

Comparing Assistant