

GAHC010126252022



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

Case No. : WP(C)/4336/2022

HIMANTAJYOTI SONOWAL
SON OF LATE TARA PRASAD SONOWAL @ LATE TARA PRASAD BORAH,
VILLAGE- TETELIGURI, P.O. DEHINGMUKEH, P.S. DEMOW, PIN- 785671,
DISTRICT- SIVASAGAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN
DISTRICT LEVEL SELECTION COMMITTEE FOR COMPASSIONATE
APPOINTMENT
SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN- 785640.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN- 785640.

Advocate for the Petitioner : MR N N UPADHYAYA

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

25.05.2023

Heard Shri NN Upadhyaya, learned counsel for the petitioner. Also heard Shri P Bora, learned Standing Counsel, Education (Elem.) Department as well as Ms. D Das Barman, learned State Counsel, Assam.

2. Considering the subject matter in dispute and the instructions obtained by Shri Bora, learned Standing Counsel, the writ petition is taken up for disposal at the motion stage.

3. However, this Court had noted that this matter was filed in June, 2022 and had come up for consideration on a number of occasions when this Court had directed the learned Standing Counsel to obtain instructions.

4. The issue involved is a claim for consideration for appointment on compassionate ground.

5. The fact projected is that the father of the petitioner, who was an Assistant Teacher of Dehingmukh Teteliguri MV School, Sivasagar, had died-in-harness on 26.03.2016. The petitioner claimed to be eligible in all respects and had accordingly, filed an application in the prescribed format on 20.07.2016 praying for appointment on compassionate ground. The petitioner was not informed of any consideration of his

application. However, after about 6 years, he was informed that a meeting of the DLC was held on 12.01.2022 wherein, the claim of the petitioner was rejected. The minutes also referred to a subsequent application dated 27.12.2021. However, the reasons prescribed for rejection is that the consideration could not be made as the application was not authenticated due to lack of seal and signature of the concerned authority. The relevant part of the consideration appearing from the minutes of the meeting dated 12.01.2022, which has been communicated on 13.01.2022, is extracted hereinbelow:

“As the application was not authenticated due to lack of seal and signature of the concerned authority, hence the proposal of Sri Himantajyoti Sonowal, S/o Late Tara Prasad Bora Sonowal, Ex.AT for appointment on compassionate ground couldn't be considered.”

6. Shri Upadhyaya, learned counsel, accordingly submits that the aforesaid rejection is liable to be interfered with and appropriate direction be issued for consideration of the case of the petitioner in accordance with law.

7. Shri Bora, learned Standing Counsel has placed before this Court a copy of the written instructions received by him along with certain photo copies from the note sheet. It appears from the same that in the year 2021, the petitioner had made further endeavour for his appointment on compassionate ground and accordingly, he was advised to apply to the DLC which appears to have been done vide the second application dated 27.12.2021.

8. Though it has been projected that the rejection of the application of the petitioner is on the ground of the same being time barred, a reading of the impugned decision does not reflect the same and the reasons is a different one which has been

stated above.

9. It is a settled position of law that one time consideration on merits is necessary for every application which has been filed for appointment on compassionate ground.

10. In the instant case, the reason assigned for rejection does not appear to be germane and cogent because of two counts. Firstly, no fault can be attributed to an aspirant submitting an application for compassionate appointment, if the seal and signature of the concerned authority are not there. In fact, when the application had reached the DLC for such consideration, lack of signature or seal on the said application of the concerned authority should not have been a reason and at least, no fault could have been attributed to the petitioner. Secondly, though delay has not been cited as one of the reasons, it cannot be held to be an unreasonable stand on the part of the petitioner to apply afresh vide the application dated 27.12.2021, more so when his approach to the authorities had also culminated with such an advice which is revealed from the note sheets.

11. In view of the above, this writ petition is allowed and the impugned minutes of the meeting dated 12.01.2022, which was communicated on 13.01.2022 pertaining to the consideration of the case of the petitioner is interfered with.

12. Consequently, it is directed that the case of the petitioner for appointment on compassionate ground be considered by the DLC afresh on merits. Such consideration is, however, required to be made strictly in accordance with law holding the field.

13. The aforesaid consideration be made in the next meeting of the DLC.

14. It is also made clear that as an issue of authenticity was raised, the veracity of

the application and the details of the same may be examined before such consideration.

15. A photo copy of the instructions placed before this Court is made a part of the records.

JUDGE

Comparing Assistant