

GAHC010126892023



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

Case No. : WP(C)/3470/2023

HIRABATI BHAGAT
D/O- LATE BIRENDRA CHANDRA BHAGAT, P/R- VILLAGE- DABABIL, P.O.
CHOTTONILIBARI, P.S. RUNIKHATA, DIST.- CHIRANG, ASSAM

VERSUS

THE BODOLAND TERRITORIAL COUNCIL AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY, BTC, KOKRAJHAR, ASSAM

2:DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM

3:DISTRICT ELEMENTARY EDUCATION OFFICER
CHIRANG DISTRICT

4:THE DEPUTY COMMISSIONER
CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE CHIRANG
ASSAM

5:THE CIRCLE OFFICER
SIDLI REVENUE CIRCLE
SIDL

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent : SC, BTC

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 21.07.2023

Heard Mrs. K.Devi, learned counsel for the petitioner. Also heard Mr. R.K.Muchahary, learned standing counsel, BTC for the respondent Nos. 1, 2 and 3 and Mr. S.R.Baruah, learned Govt. Advocate for the respondent Nos. 4 and 5.

2. The petitioner's father late Birendra Chandra Bhagat while serving as an Assistant Teacher in Subhajhar M.E. School under DEEO, Chirang District, died-in-harness on 27.11.2011. Thereafter, the petitioner made an application for appointment on compassionate grounds on 15.02.2012.

3. The case of the petitioner was considered by the District Level Committee, Chirang district in its meeting held on 29.03.2012 and her case could not be considered as there was no report on the economic status. The minutes further indicates that the DEEO will collect the economic status report and submit it in the next immediate meeting of the DLC.

As steps were not taken by the DEEO for submission of the economic status of the petitioner, the petitioner approached this court by filing WP(C) 5070/2021 which was disposed of by order dated 30.09.2021 directing the DEEO, Chirang to place the application of the petitioner before the DLC of Chirang district in its next meeting along with a copy of the economic status report of the petitioner.

4. Thereafter, the concerned District Level Committee in its meeting held on 26.03.2013 rejected the case of the petitioner on the ground that the petitioner had applied 3(three) months from the date of death of her father.

5. Being aggrieved, the petitioner approached this Court by filing WP(C)/6890/2021 which was disposed of by order dated 10.02.2022 by observing that the death of the petitioner's father took place on 27.11.2011 and she applied for compassionate appointment on 15.02.2012 and therefore, the application should have been accepted as it was within a period of 1(one) year and accordingly the matter was remanded back to the DLC, Chirang district for a fresh consideration of the application of the petitioner as per rules.

6. The concerned DLC again reconsidered the case of the petitioner on 02.06.2022 and the case of the petitioner was again rejected on the ground that her case cannot be recommended in Grade-IV due to lack of vacancy and as the petitioner did not have the requisite TET and D.El.Ed qualification, therefore, her case could not be recommended against the Grade-III Assistant Teacher post.

7. Clause-15 of the Office Memorandum dated 1st of June, 2015 provides that if sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the Administrative Department/ Office to take up the matter with other Department/ Offices of the Government to provide an early appointment on compassionate grounds to those in the waiting list. It appears that the DLC while considering the case of the petitioner in its meeting held on 02.06.2022 did not consider the

case of the petitioner in terms of Clause-15 of the O.M. dated 01.06.2015. If vacancies were not available in the particular department, the Administrative Department could have taken steps for considering the case of the petitioner in any other department to any Grade-IV post commensurate to the educational qualification of the petitioner.

8. Accordingly, matter is again remanded back to the DLC, Chirang district to reconsider the case of the petitioner in terms of the Clause-15 of the OM dated 01.06.2015 and commensurate to her education qualification and thereafter make its recommendation in its next immediate sitting. Any decision taken by the DLC shall be communicated to the petitioner forthwith.

9. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant