

GAHC010128012023



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

Case No. : WP(C)/3498/2023

SANJAY DEKA
S/O- LATE TARANI KANTA DEKA,
R/O- VILLAGE KHUDRA GOMURA, SARTHEBARI,
P.O- GOMURA, DIST- BARPETA, ASSAM, PIN-781307

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY , GOVT OF ASSAM, DISPUR, GUWAHATI-
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2:THE COMMISSIONER AND SECRETARY

WATER RESOURCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6.

3:THE CHIEF ENGINEER

WATER RESOURCE DEPARTMENT
CHANDMARI
GUWAHATI-03

4:THE EXECUTIVE ENGINEER
NALBARI WATER RESOURCE DIVISION
NALBARI
ASSAM. PIN-781353

5:THE DISTRICT LEVEL COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND.
REP. BY ITS CHAIRMAN

THE DEPUTY COMMISSIONER
NALBARI
ASSAM
PIN-78133

Advocate for the Petitioner : MR. D BHUYAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 19-06-2023

Heard Mr. S. Bikash, learned counsel for the writ petitioner. Also heard Ms. M.D. Bora, learned Govt. Advocate, Assam appearing on behalf of respondent Nos. 1 and 5 and Mr. R.M. Das, learned standing counsel, W.R. Department, Assam appearing on behalf of respondent Nos. 2 to 4.

The father of the writ petitioner died-in-harness on 18-01-2009. After 04 months and 11 days from the date of death of his father, the petitioner had submitted an application on 29-05-2009 seeking appointment on compassionate ground. At the relevant point of time, the time limit for submitting such application was 03 months from the date of death of the Govt. employee. Since the application was submitted by the petitioner beyond the prescribed time limit, the District Level Committee (DLC) of Nalbari, in its meeting held on 03-12-2009, had considered the application of the petitioner and rejected the same on the ground that the application was submitted beyond the prescribed time limit as laid down by the Govt. O.M. It is the resolution dated 03-12-2009,

which has been put under challenge by filing the instant writ petition, after a lapse of 14 years.

The learned counsel for the petitioner has advanced two arguments. Firstly, that there were un-surmountable difficulties on the part of his client to submit the application within the prescribed period of 03 months. Therefore, the period ought to have been condoned. He has submitted that in the decision rendered in the case of ***Faziron Nessa & Ors. Vs. State of Assam & Ors.*** reported in ***2010 (4) GLT 340***, this Court has held that the application is required to be filed within a period of one year. Therefore, there was no delay in this case.

It is also the submission of Mr. Bikash that his client was not aware of the outcome of his application until recently. Hence, the delay in approaching this Court.

Ms. M.D. Bora, learned Govt. Advocate, Assam, on the other hand, has relied upon the order dated 15-05-2023 passed by this Court in ***W.P.(C) No. 2349/2023 (Pranjal Konch Vs. State of Assam & Ors.)*** to submit that the application for compassionate appointment cannot be entertained 15 years after the death of the Govt. employee. Similar is the stand of Mr. Das, learned counsel appearing for the W.R. Department.

The fact of the matter is that the father of the petitioner had died nearly 14 years back and his application was rejected on 03-12-2009. The ground on which the application was rejected cannot be called as arbitrary since as per the prescribed norms holding the field at the relevant point of time, all applications seeking compassionate appointment, were required to be filed within a period of 03 months. Be that as it may,

the larger question that would arise in this case is as to whether, in the facts of this case, the petitioner can be appointed on compassionate ground 14 years after the demise of his father. The answer to the question has to be in the negative. This Court has, time and again, observed that the scheme for compassionate appointment has been framed by the Govt. to give immediate relief to the family members of the deceased employee which had lost the sole bread earner. If the petitioner could survive for more than 14 years after the death of his father and that too, without making any enquiry as to the outcome of his application, it is sufficient indication of fact that he had other means to sustain himself. In other words, the element of compassion in this case appears to have been completely lost so as to bring the application of the petitioner within the ambit of the scheme framed by the Govt. of Assam.

Situated thus, I am of the view that there is no merit in this writ petition, the same is accordingly closed.

JUDGE

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Comparing Assistant