

GAHC010130332023



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

Case No. : WP(C)/3544/2023

SULTANA REJIA PARVIN
W/O- LATE SURAT JAMAL SHEIKH,
R/O- VILLAGE- TENGAPANI, WARD NO. 4,
P.O. AND P.S. ABHAYAPURI,
DISTRICT- BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
HEALTH AND FAMILY WELFARE DEPARTMENT,
DISPUR, GUWAHATI- 781016.

2:THE MISSION DIRECTOR OF NATIONAL RURAL HEALTH MISSION
KHANAPARA
GUWAHATI- 781022.

3:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI- 781036.

4:THE DEPUTY COMMISSIONER
BONGAIGAON CUM CHAIRMAN OF DISTRICT LEVEL SELECTION
COMMITTEE
(D.L.C.
BONGAIGAON)

ASSAM- 783380.

5:THE JOINT DIRECTOR OF HEALTH SERVICES
BONGAIGAON
DISTRICT- BONGAIGAON

ASSAM

PIN- 783380

Advocate for the Petitioner : MR. R ISLAM

Advocate for the Respondent : SC, HEALTH

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

ORDER

13.10.2023

Heard Shri R. Islam, learned counsel for the petitioner. Also heard Ms. S. Sarma, learned Standing Counsel, Health & Family Welfare Department whereas Shri D. Bora, learned State Counsel is also present. The claim made in this petition is with regard to appointment on compassionate ground.

It is the case of the petitioner that her husband Surat Zamal Sheikh was serving as a Pharmacist in the Srijangram Block and had died in harness on 28.05.2010. It is the case of the petitioner that she had applied for appointment on compassionate ground which was also forwarded by the concerned office on 11.04.2013. The petitioner had earlier approached this Court by filing WP(C)/3086/2011 which was disposed of on 17.06.2011. It appears that in pursuance to such direction, the forwarding was made on 11.04.2013. After lapse of more than 8 years, the petitioner was informed that her claim for appointment on compassionate ground was rejected.

Shri Islam, the learned counsel for the petitioner has submitted that once the application of the petitioner is being forwarded, she was under the *bona fide* belief of a fair consideration and the intimation of such consideration. He accordingly submits that the intimation of rejection being done after more than 7 years, no fault can be attributed on the petitioner.

Ms. Sarma, the learned Standing Counsel of the Department has however

submitted that the rejection was done in time which however was intimated on 03.09.2021. She also raises the issue of delay.

Shri D. Bora, the learned State Counsel while endorsing the submission of Ms. Sarma, has also raised the point that the death was in the year 2010 and therefore, the entire objective of having an appointment on compassionate ground will not be made by any direction for consideration.

It is not disputed that the death of the Government servant was in the year 2010. The petitioner had earlier approached this Court as noted above and the said writ petition was disposed of on 17.06.2011 pursuant to which the case of the petitioner was forwarded on 11.04.2013.

It is however not explained in the petition as to why the petitioner did not take any further action due to the delay in either consideration or for any intimation of such consideration, if any.

Though this Court would not endorse the action of the respondent in delaying the intimation of the rejection which has been done only vide letter dated 03.09.2021, this Court cannot lose sight of the fact that the death of the Government Servant was in the year 2010 and directing any further consideration after a lapse of more than 13 years would not be in consonance with the objective of the scheme for appointment on compassionate ground which is to overcome the immediate crisis faced by a bereaved family which has lost the sole bread winner who was a Government Servant.

In that view of the matter, this Court is of the opinion that the present may not be a fit case for interference and accordingly the writ petition is dismissed.

JUDGE

Comparing Assistant