

GAHC010131232017



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

Case No. : WP(C)/3424/2017

DALI DEVI
W/O. LT. MUNINDRA SHARMA, R/O. VILL. BORKA, P.O. PUB-BORKA, P.S.
KAMALPUR, DIST. KAMRUPM, ASSAM.

VERSUS

THE STATE OF ASSAM and 7 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, EDUCATION
ELEMENTARY DEPTT., DISPUR, GUWAHATI-6

2:THE UNDER SECY. TO THE GOVT. OF ASSAM

EDUCATION ELEMENTARY DEPTT.
DISPUR
GUWAHATI-06.

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM

KAHILIPARA
GHY.-19.

4:THE DY. COMMISSIONER CUM CHAIRMAN

DIST. LEVEL COMMITTEE
KAMRUPR
FOR SELECTION OF CANDIDATE FOR APPOINTMENT ON
COMPASSIONATE GROUND
DIST. KAMRUP
ASSAM.

5:THE ADDL. DEPUTY COMMISSIONER

KAMRUP
AMINGAON
DIST. KAMRUP
ASSAM.

6:THE DIST. ELEMENTARY EDUCATION OFFICER
KAMRUP

DIST. KAMRUP
ASSAM.

7:THE DY. INSPECTOR OF SCHOOLS
KAMRUP

DIST. KAMRUP
ASSAM.

8:THE BLOCK ELEMENTARY EDUCATION OFFICER

RANGIA
DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MR.A CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

03.03.2023

Heard Mr. S Islam, learned counsel for the petitioner and Mr. P N Sarma, learned Standing counsel, Department of School (Elementary) Education for the respondent Nos. 1, 2, 3, 6, 7 & 8. Also heard Mr. P Saikia, learned Government Advocate, Assam for the respondent Nos. 4 & 5.

2. Being aggrieved with the order dated 30.06.2014 of the District Level Committee for compassionate appointment, Kamrup (Rural), whereby the case of the petitioner was rejected for her compassionate appointment, the petitioner has filed this

writ petition on 16.05.2017.

3. Brief facts of the case is that the husband of the petitioner, an Assistant Teacher of Chepti Lower Primary School, a provincialised elementary school of the state, died in harness on 14.11.2001 leaving behind his wife/widow i.e., the petitioner herein and two minor school going children.

4. After the demise of the sole bread earner of the family since the petitioner and her family suffered severe financial hardships and since the petitioner being the only qualified person of her family, applied for appointment on compassionate ground in any post in Lower Primary/Upper Primary school in the district of Kamrup (Rural), preferably in the vacant post of her deceased husband.

5. Her case was accordingly forwarded by the authorities in the Education Department on 11.07.2002.

6. On 17.12.2005, the Director of Elementary Education, Assam forwarded the application of the petitioner in original for her compassionate appointment.

7. The petitioner filed a writ petition being WP(C) No. 1601/2010 praying for a direction to the respondent authorities therein to consider her case for compassionate appointment and the said writ petition was disposed of on 10.03.2010 directing the respondent authorities to process the claim of the petitioner for her compassionate appointment in terms of the guidelines laid down in the case of "*Achyut Ranjan Das -Vs- the State of Assam and Ors.*" reported in 2006 (4) GLT 674, when the cases of other similarly situated persons were taken up for consideration.

8. As the case of the petitioner was not considered by the concerned District Level Committee (DLC) for compassionate appointment, the petitioner preferred another writ petition being WP(C) No. 5316/2013 for consideration of her case for compassionate appointment.

9. A Coordinate Bench of this Court by order dated 08.04.2014 disposed of said WP(C) No. 5316/2013 preferred by the petitioner directing the DLC, Kamrup (Rural) to consider the case of the petitioner in its next meeting, in terms of the guidelines issued for appointment on compassionate appointment and to take necessary decision in that

case with the further observation that if the concerned DLC recommends the name of the petitioner for her compassionate appointment, the State Level Committee (SLC) for compassionate appointment shall immediately consider her case and the decision of the DLC as well as the SLC shall be communicated to the petitioner.

10. Since the said order was not complied with by the respondent authorities, the petitioner preferred a Contempt Petition for contempt of the order dated 08.04.2014 passed in WP(C) No. 5316/2013 being Cont. Cas (C) No. 378/2015.

11. During the proceeding of said contempt petition, the respondent authorities placed the decision of the DLC for compassionate appointment, Kamrup (Rural) in the meeting held on 30.06.2014 with regard to the petitioner.

12. The Court considered the said observation made in the meeting of the DLC, Kamrup (Rural) dated 30.06.2014 with regard to the petitioner and disposed of said Cont. Cas (C) No. 378/2015 on 02.12.2016 observing that the DLC concerned has already considered the case of the petitioner and rejected her prayer for compassionate appointment on the ground of long lapse of time and the Court also observed that without expressing any opinion on merit, as the case of the petitioner has been considered it would not be justified to continue with the contempt proceeding with the further observation that if the petitioner has any grievance, it would be open to her to challenge the legality and validity of such decision of the DLC concerned before the appropriate forum in accordance with law, if so advised.

13. In that view of the matter, the petitioner has filed this writ petition challenging the decision of the DLC for compassionate appointment, Kamrup (Rural) dated 30.06.2014, wherein the said DLC observed as follows:

“Records show that the Govt. employee died on 14.11.2001 and her case has been placed before in the earlier DLC meeting. Now she has re-applied on 07.12.2012. The objective of the scheme is to save the bereaved family from financial crisis resulting from death of bread earner. The LDC observed that in the instant case about 13 years have elapsed and the family might somehow managed to tide over the crisis and

considering her case for compassionate ground appointment at this stage may not be relevant and is against the letter and spirit of the scheme."

14. The State Government in supersession of its earlier orders framed certain schemes for compassionate appointment under the die-in-harness scheme by issuing Office Memorandums in its Personnel (B) Department and the Finance Department.

15. From those schemes, it can be seen that compassionate appointment under the die-in-harness scheme is only for to recover from the financial crisis that a family of a deceased Government employee faces on the death of the sole bread earner of the family.

16. In the case in hand, it is seen that the District Level Committee for compassionate appointment while considering the case of the petitioner found that her case was earlier considered by the District Level Committee and she again re-applied on 07.12.2012, where her husband expired on 14.11.2001 and at the time of consideration of her case for compassionate appointment it was more than 13 years and as such, said DLC, Kamrup (Rural) came to the consideration that the petitioner with her family tide over her crisis during these 13 years without any such compassionate appointment and accordingly found that the case of the petitioner for her compassionate appointment is not relevant.

17. 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.

18. After considering the entire aspect of the matter, the Court did not find any infirmity or illegality to interfere with such observation of the DLC for compassionate appointment, Kamrup (Rural) dated 30.06.2014 rejecting the case of the petitioner for her compassionate appointment on the death of her husband on 14.11.2001.

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

JUDGE

Comparing Assistant