

GAHC010133792023



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

Case No. : WP(C)/3554/2023

ANIL KOCH
S/O- LATE THANURAM KOCH,
R/O- VILLAGE 2 NO. MEZENGA SONALI GAON,
TITABOR, P.O- PURANA TITABOR, DIST- JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF HOME
DISPUR, GUWAHATI-6.

2:THE STATE LEVEL COMMITTEE (SLC)
OF COMPASSIONATE APPOINTMENT
ASSAM
REPRESENTED BY THE CHAIRMAN
CHIEF SECRETARY
GOVT OF ASSAM
DISPUR
GUWAHATI-06

3:THE DISTRICT LEVEL COMMITTEE (DLC)
JORHAT FOR SELECTION OF CANDIDATES FOR COMPASSIONATE
APPOINTMENT
P.O- JORHAT
DIST- JORHAT
ASSAM
REPRESENTED BY THE CHAIRMAN CUM DEPUTY COMMISSIONER
JORHAT

4:THE COMMANDANT
3RD APBN

TITABOR
JORHAT
ASSAM
PIN-785001

5:THE SUPERINTENDENT OF POLICE
JORHAT
ASSAM
PIN-78500

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 21-06-2023

Heard Mr. A.K. Azad, learned counsel for the writ petitioner.

The father of the petitioner who was serving in the post of Nayak in 3rd APBn. died in harness on 06-12-2001. At that time of death of his father, the petitioner was a minor. However, on attaining majority, the petitioner had submitted an application on 20-10-2013 praying for appointment on compassionate ground.

It appears that the application submitted by the petitioner was forwarded by the District Level Committee (DLC) of Jorhat vide resolution adopted in its meeting held on 26-06-2014. The grievance of the petitioner is that the State Level Committee (SLC) had rejected his application on the ground of "late submission of application" vide resolution dated 05-09-2017. Aggrieved by the resolution dated 05-09-2017 of the SLC the petitioner has approached this Court by filing this writ petition, after a lapse of nearly 06 years from

the date of accrual of the cause of action.

Mr. Azad submits that the delay in filing the application was on account of the fact that his client was a minor at the time of death of his father. However, since the DLC had recommended his case, the SLC ought to have considered it favourably.

The said submission has been opposed by Ms. M.D. Bora, learned Govt. Advocate, Assam. By placing reliance on a decision of the Supreme Court rendered in the case of ***Sanjay Kumar Vs. State of Bihar & Ors.*** reported in ***2000 (7) SCC 192*** as well as an unreported decision of this Court rendered in the case of ***Pranjal Konch Vs. State of Assam & Ors.*** [***W.P.(C) No. 2349/2023***] the learned Govt. Advocate submits that the case of the petitioner is hit by the principles of delay and therefore, his application has been rightly rejected by the SLC. It is also the submission of Ms. Bora that there is no element of compassion in this case and law is also well settled that there cannot be any special treatment extended to the applications merely because the applicant was a minor at the time of demise of his/her guardian.

The father of the petitioner had died way back in the year 2001 and the SLC had also rejected his application on 05-09-2017, which is nearly 06 years back. Under the circumstances, no writ of mandamus can be issued at this stage directing the respondents to consider the application of the petitioner for appointment on compassionate ground.

In the case of ***Sanjay Kumar (Supra)*** the Supreme Court has observed that there cannot be reservation of vacancy for a minor till such time the person attains majority. In the case of ***Pranjal Konch (Supra)***, it has been held by this Court that the

scheme of compassionate appointment aims at providing immediate relief to the family of the deceased Govt. employee and the same does not confer any indefeasible right upon a person for appointment in a Govt. job. Accordingly, an application seeking compassionate appointment after 19 years from the date of demise of the Govt. employee was held to be not maintainable.

After going through the facts and circumstances of the case, as noted above, this Court is in agreement on the submission of Ms. Bora that the writ petition is covered by the decision in ***Sanjay Kumar (Supra)*** and ***Pranjal Konch (Supra)***.

For the reasons stated above, this Court does not find any illegality in the decision of the SLC. The writ petition is held to be devoid of any merit and the same is accordingly dismissed.

JUDGE

GS

Comparing Assistant