

GAHC010139552023



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

Case No. : WP(C)/3738/2023

THOIBA SINGHA
S/O- LATE SANATAN SINGHA,
R/O- VILL- JYOTI NAGAR, BHONGA GAON,
P.O.- GOLAGHAT, DIST.- GOLAGHAT (ASSAM).

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM CHAIRMAN OF
THE STATE LEVEL COMMITTEE
FOR COMPASSIONATE APPOINTMENT

DISPUR
GUWAHATI-06.

3:THE DIRECTOR
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES

RUKMININAGAR

GUWAHATI-06.

4:THE DISTRICT LEVEL COMMITTEE
GOLAGHAT
REPRESENTED BY THE DEPUTY COMMISSIONER
GOLAGHAT

P.O. AND DIST.- GOLAGHAT (ASSAM).

5:THE PROJECT DIRECTOR
ITDP (INTEGRATED TRIBAL DEVELOPMENT PROJECT)
GOLAGHAT
P.O. AND DIST.- GOLAGHAT
(ASSAM)

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : SC, WPT AND BC

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

05.08.2023

Heard Mr. F.A. Laskar, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned Standing Counsel, WPT & SC for the respondents No. 1, 3 & 5 and Mr. H. Sarma, learned Addl. Sr. Government Advocate for the respondents No. 2 & 4.

2. This petition has been filed by the petitioner praying for appointment under the compassionate scheme as his father who was a Government servant who died in harness. The late father of the petitioner was a Driver in the Office of the ITDP, Golaghat under the Department of Welfare of Plain Tribes and Backward Classes, Government of Assam. The late father of the petitioner died in harness while he was in service on 01.03.2012 leaving behind his widow, one daughter and three sons including the petitioner. The petitioner, thereafter, applied for appointment on compassionate ground on 20.03.2013 to the Project Director, ITDP, Golaghat. The District Level Committee, Golaghat in its meeting held on 17.10.2017 recommended the name of the petitioner for appointment under the scheme for compassionate appointment for a Grade-IV post in the Welfare of Plain Tribes and

Backward Classes Department. The recommendation of the DLC, Golaghat was forwarded to be placed before the SLC. On 07.12.2019, the SLC in its meeting held rejected the petitioner's case on the ground of lack of vacancy in the office of ITDC.

3. The learned counsel for the petitioner submits that the rejection of the petitioner's case for compassionate appointment by the SLC was done without taking into note the provisions of Clause 15 of the OM dated 01.06.2015. As per the said provision, the concerned authorities are required to enquire about the availability of vacancies in other departments/all departments thereafter proceed to pass necessary orders.

4. Both the learned counsels appearing for the respondents submit that the case of the petitioner has been considered and in the absence of any vacancies, there is no other option but to reject the case of the petitioner.

5. The learned counsels for the parties have been heard. Pleadings have been carefully perused and also the OM dated 01.06.2015. Para 15 of the OM dated 01.06.2015 reads as under:

“15. 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 Departments/Offices of the Government to provide at an early appointment on compassionate grounds to those in the waiting list.”

6. Upon due perusal of the OM as well as the order passed by the SLC, it is seen that the SLC by its meeting held on 17.12.2019 rejected the case of the petitioner along with two others on the ground of non-availability vacancies position under the prescribed percentage of 5% as prescribed under OM No. ABP

50/2006//Pt/182 dated 01.06.2015. While doing so, there is no reference is found recorded in the said Minutes of the meeting that the case of the petitioner was considered in respect of all available vacancies in the post of Grade-IV under the 5% quota, as is required under Clause 15 of the OM dated 01.06.2015. No such finding is reflected in the minutes of the meeting.

7. Under such circumstances, it appears that the prescription of clause-15 of OM dated 01.06.2015 has not been adhered to by the SLC while considering the case of the petitioner in its meeting held on 07.12.2019. Accordingly, this Court is of the view that the writ petition can be closed with a direction to the SLC to reconsider the case of the petitioner in respect of any other available vacancy under the prescribed percentage of 5% quota as per the provisions of clause-15 of the OM dated 01.06.2015.

8. To that extent the minutes of the meeting held on 17.12.2019 stands interfered with and set aside. The matter is remanded back to the SLC and the SLC will consider the case of the petitioner in its next meeting.

9. This directions as contained above in the SLC is subject to the SLC not having considered the case of the petitioner in the meantime.

10. The writ petition stands disposed of. No order as to cost.

11. Certified copy of the order is to be placed before the SLC within a period of two weeks from today.

JUDGE