

GAHC010170242023



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

Case No. : WP(C)/4456/2023

ALOK SHANKAR DAS
SON OF LATE DEBENDRA CH. DAS,
VILL. CHANDRAPUR, P.O.- BHAKATPUR,
P.S.- CACHAR, DIST.- CACHAR,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
DEPARTMENT OF HOME,
DISPUR, GUWAHATI- 781006.

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

ASSAM SECRETARIAT
DISPUR

GUWAHATI- 781006.

3:THE DIRECTOR GENERAL OF POLICE (A)
ASSAM
ULUBARI
GUWAHATI-07.

4:THE DIRECTOR GENERAL OF CIVIL DEFENCE AND COMMANDANT
GENERAL OF HOME GUARDS
ASSAM
ASSAM

BELTOLA
GUWAHATI- 781028.

5:THE INSPECTOR GENERAL OF POLICE (ADMN)
ASSAM POLICE HEADQUARTER

ULUBARI
GUWAHATI- 781007.

6:THE COMMANDANT
ASSAM SPECIAL POLICE FORCE BATTALION-1
BARJAR
NALBARI
ASSAM

PIN- 781346

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

05/08/2023

Heard Mr. M. J. Quadir, learned counsel appearing for the petitioners. Also heard Mr. C. S. Hazarika, learned Government Advocate for the respondents.

2. This writ petition has been filed by the petitioner aggrieved by the fact that while the District Level Committee of Cachar District had recommended the petitioner for being appointed as Grade III in the post of Junior Assistant on the basis of his application, the State Level Committee by minutes of the meeting held on 10.02.2022 had recommended the petitioner for being appointed as a Constable under the Director General Civil Defence against the vacant post. The petitioner has thereafter joined in the said service and is undergoing basic training.

3. The learned counsel for the petitioner submits that the District Level Committee had recommended him for a Grade III post of Junior Assistant and the State Level Committee ought not to have recommended him for appointment in the constable post. The learned counsel for the petitioner submits that directions be issued to the respondents to appoint the petitioner as per the recommendation of DLC and not as per the recommendation of SLC.

4. Mr. C.S. Hazarika, learned Government Advocate opposes the contentions of the petitioner and submits that the petitioner is already appointed and is working and therefore, no further orders are called for.

5. Learned counsels for the parties have been heard.

6. The writ petition is filed by the petitioner who prayed for compassionate appointment because of the death of his father while he was in his service. The case of the petitioner was sympathetically considered by the District Level Committee and by the State Level Committee and he was recommended for being appointed to the post of a Constable under the Director General Civil Defence. The petitioner has since been put up for training and is undergoing the necessary training. The claim of the petitioner is that he should be considered for being appointed in Grade III post as recommended earlier by the DLC cannot be accepted in view of the fact that the petitioner has approached the authority for being appointed on compassionate ground. His prayer for conversion of post to Grade III post cannot be accepted. The law in respect of compassionate appointment has been laid down by the Apex Court in several Judgments. The compassionate appointment are not the modes of regular appointment. The compassionate appointment is issued only for enabling the family to overcome the sudden misfortune and financial hardships that may have been inflicted on the family of the employee who had died in harness.

7. The State of Assam by several Office Memorandums had laid down the procedures and guidelines for consideration of application seeking compassionate appointment. Presently the Office Memorandum dated 01.06.2015 is being referred to for laying down the guidelines. Nowhere in the guidelines is there any provisions for making alteration of appointment made under the compassionate appointment by the authorities. The petitioner's case have been favourably considered both by the District Level Committee as well as by the State Level Committee. However, at this stage the petitioner prays for conversion of his post to the post of Junior Assistant, Grade III as was recommended by the DLC as opposed to the post of Constable under the Director General Civil Defence, which has been recommended by the SLC. In terms of the Office Memorandum the decision of the SLC is final. The decision of the SLC has not been assailed by the petitioner as on date nor has the petitioner declined to accept the recommendations by the SLC. The petitioner have been accepted the recommendation of the SLC and has presented himself for the training prior to regular appointment before the competent authorities. The prayer of the petitioner for conversion to the post of Junior Assistant Grade III therefore, cannot be accepted under the scheme of compassionate appointment.

8. It is also not the case of the petitioner that he is otherwise not competent for being appointed under the post of constable as recommended by the SLC.

9. In that view of the matter the Court does not find any merit in the prayers made in the writ petition, the same is accordingly dismissed.

10. Considering the fact that this is a matter for compassionate appointment, the Court refrains from imposing any cost on the petitioner for filing frivolous petition.

11. Writ petition is accordingly dismissed.

JUDGE

W

Comparing Assistant