

GAHC010174662023



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

Case No. : WP(C)/4639/2023

AMARDEEP BARMAN
S/O- LATE PRAMOD CHANDRA BARMAN,
R/O- VILLAGE PANIGAON,
P.O.- PANIGAON,
P.S.- BELSOR, PIN- 781303,
DISTRICT- NALBARI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM-
CUM- CHAIRMAN OF THE STATE LEVEL COMMITTEE FOR APPOINTMENT
ON COMPASSIONATE GROUND,
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HEALTH AND FAMILY WELFARE
DISPUR
GUWAHATI- 781006.

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

4:THE JOINT DIRECTOR OF HEALTH SERVICES
GOVT. OF ASSAM
NALBARI
DIST.- NALBARI- 781335

ASSAM.

5:THE DEPUTY COMMISSIONER/ DISTRICT COMMISSIONER
NALBARI-CUM-CHAIRMAN OF DISTRICT LEVEL
COMMITTEE PERTAINING TO COMPASSIONATE APPOINTMENT

NALBARI
ASSAM
PIN- 781335

Advocate for the Petitioner : MR H K MAHANTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 16-08-2023

Heard Mr. H.K. Mahanta, learned counsel for the petitioner as well as Mr. D. Borah, learned Govt. Advocate appearing for the respondent nos.1 and 5 and Ms. S. Sharma, learned standing counsel for the Health Department appearing for the respondent nos.2, 3 and 4.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction upon the DLC on compassionate ground to consider the case of the petitioner on the basis of the recommendation made by the respondent no.4, who is the Joint Director of Health Services, Nalbari.

3. The case of the petitioner is that his father died-in-harness on 01.08.2005 and there is no source of income for the family. The application for compassionate appointment made by the petitioner was forwarded to the

Directorate of Health Services, Assam by the respondent no.4 vide forwarding letter dated 21.09.2005. After 6 years, vide forwarding letter dated 07.06.2011, the Deputy Commissioner, Nalbari sent the name of 24 candidates for appointment on compassionate ground where the name of the petitioner appeared at Sl. No.19, but the DLC for appointment on compassionate ground, Nalbari did not take any action regarding the petitioner. The Joint Director of Health Services, Nalbari by another letter dated 10.04.2012, sent another list to the Director of Health Services where the name of the petitioner appeared for consideration. Therefore as the candidature of the petitioner was not considered by the DLC, the petitioner has approached this Court.

4. It is noted that the father of the petitioner had died on 01.08.2005 and the application for appointment on compassionate ground has not been considered till date. After 18 years from the date of death of the father of the petitioner it is just not possible that a vacancy which had arisen during the year 2005-2006 would still be available for being filled up on compassionate ground.

5. Although the petitioner is not responsible for delay, as his case was not placed before the DLC, but the inordinate delay in approaching the Court has disentitled the petitioner to any relief. The *maxim of vigilantibus non dormientibus jura subveniunt*, meaning thereby that the law will assist those who were vigilant with their rights and not those who sleep there upon would squarely apply in this case. Under such circumstances, the Court is not inclined to entertain this writ petition on the ground of inordinate delay and laches, and the same is dismissed at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant