

GAHC010176162023



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

Case No. : WP(C)/4599/2023

PULAKESH GOGOI
S/O- LATE MAHANANDA GOGOI,
R/O- WARD NO. 4, NALINIPAM,
P.O. AND P.S.- DHEMAJI,
DIST.- DHEMAJI, ASSAM.

VERSUS

THE STATE OF ASSAM 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
SECONDARY EDUCATION DEPARTMENT,
SACHIVALAYA, DISPUR, ASSAM- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE DISTRICT LEVEL COMMITTEE FOR COMPASSIONATE
APPOINTMENT
REPRESENTED HEREIN BY THE DEPUTY COMMISSIONER
DHEMAJI

ASSAM
787057.

4:THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
REPRESENTED HEREIN BY THE CHIEF SECRETARY TO THE GOVT. OF
ASSAM

SACHIVALAYA

DISPUR

GUWAHATI-06

Advocate for the Petitioner : MR. D GOGOI

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 01.09.2023

Heard Mr. D. Gogoi, learned counsel for the petitioner and Mr. S.M.T. Chistie, learned counsel for the respondents No. 1 and 2, being the authorities in the Secondary Education Department. Also heard Mr. G. Pegu, learned counsel for the respondents No. 3 and 4, being the Deputy Commissioner, Dhemaji and the Chief Secretary to the Government of Assam, respectively.

2. The father of the petitioner Mahananda Gogoi who was an Assistant Teacher in the Jiadhal High School, Dhemaji died in harness on 23.08.2002 and on his death, his wife being the mother of the petitioner submitted an application for compassionate appointment on 01.11.2002. Although the application was accepted by the authorities, the same was not given a due consideration. In the circumstance, the petitioner who was a minor at the time of death of his father, after attaining majority had submitted an application for compassionate appointment on 08.10.2015. The said application was considered by the DLC of Dhemaji district in its meeting of 28.12.2021. Upon evaluating that three vacancies were available for Assistant Teacher, the DLC recommended the petitioner as an Assistant Teacher and it is also noticed that the petitioner had the qualification of B.Sc., D.El.Ed. as well as TET. But when the said

recommendation was placed before the SLC in its meeting dated 01.03.2022, it stood rejected by providing that the petitioner was a minor on the date of death of his father and the application was submitted 13 years 1 month 15 days after the date of death of the deceased Government employee when the applicant attained the age of 30 years 5 months 19 days.

3. The petitioner assails the rejection of the SLC by relying on a judgment laid down by the Hon'ble Supreme Court in the case of *Syed Khadim Hussain Vs. State of Bihar and Ors., reported in (2006) 9 SCC 195*. In the matter before the Hon'ble Supreme Court in *Syed Khadim Hussain (supra)*, the widow of the deceased employee had made an application for compassionate appointment within the prescribed period which was rejected without assigning any reason and when the applicant therein attained the age of majority, he submitted an application for compassionate appointment which was also rejected and the Hon'ble Supreme Court was of the view that it was incorrect on the part of the authorities to reject the application as in the meantime, the applicant must have crossed the age of 18 years.

4. As it is noticed that the reasoning given by the SLC appears to be inconsistent with the proposition laid down by the Hon'ble Supreme Court, we remand the matter back to the SLC to reconsider the recommendation of the DLC of Dhemaji district dated 28.12.2021 while taking note of the provisions of paragraph 5 of the judgment of the Hon'ble Supreme Court in *Syed Khadim Hussain (supra)* and accordingly, be placed before the next available SLC.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant