

GAHC010181502023



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

Case No. : WP(C)/5187/2023

UJJAL GOGOI
S/O LATE CHINMOY GOGOI, R/O VILL-THURAJAN GRANT GAON, P.O.-
MORANGI, P.S.-GOLAGHAT, DIST-GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, PWD (ESTABLISHMENT-B) DEPARTMENT,
DISPUR, GUWAHATI-6

2:THE CHIEF ENGINEER
PWD (ROADS)
ASSAM
CHANDMARI
GUWAHATI-3

3:THE EXECUTIVE ENGINEER
PWD GOLAGHAT RURAL ROAD DIVISION
GOLAGHAT

4:THE DEPUTY COMMISSIONER
GOLAGHAT
DIST-GOLAGHAT
ASSAM

5:THE DISTRICT LEVEL COMMITTEE
TO BE REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
GOLAGHAT
DIST-GOLAGHAT
ASSAM

6:THE STATE LEVEL COMMITTEE
TO BE REPRESENTED BY ITS CHAIRMAN CUM CHIEF SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : SC, PWD

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

11.09.2023.

Heard Shri MAI Hussain, learned counsel for the petitioner, who has approached this Court with a claim for appointment on compassionate ground.

2. The case of the petitioner is that his father, Chinmoy Gogoi, who was working as a Section Assistant in the office of the Executive Engineer, PWD, Golahat Rural Road Division, had died-in-harness on 31.03.2015.

3. The petitioner contends that his application made for appointment on compassionate ground was recommended by the District Level Committee (DLC), Golaghat in its meeting held on 16.11.2015. However, the State Level Committee (SLC), Assam has rejected the case of the petitioner on 31.12.2018 on the ground of under qualification.

4. Shri CKS Baruah, learned State Counsel has, however, submitted that there is no inordinate delay in approaching this Court.

5. On the issue of this delay, Shri Hussain, learned counsel for the petitioner has submitted that he was approaching the authorities and only in March 2023, the minutes of the SLC was furnished.

6. A Court exercising powers under Article 226 of the Constitution of India is essentially a Court of equity wherein the conduct of the parties is of paramount importance and such conduct touches upon the aspect of due diligence of the parties approaching the Court. Though an explanation has been said to be given that the petitioner was approaching the authorities to know the outcome of the decision of the SLC, such explanation is not acceptable in view of the fact that there are other avenues to know about the outcome, including the right under the Right to Information Act which has not been recourse to. In any case, the sole objective of the Scheme for compassionate appointment being to give immediate succor to a bereaved family which has lost its sole bread winner would not be applicable in the instant case where the death was in March 2015.

7. Shri Hussain, learned counsel has relied upon a judgment of the Hon'ble Supreme Court dated 20.05.2022 in the case of ***Malaya Nanda Sethy Vs. State of Orissa & Ors.*** in **Civil Appeal No. 4103/2022** wherein the Hon'ble Supreme Court had observed that the authorities also should not delay in matters of considering application for appointment on compassionate ground so that the objective of the Scheme is not lost.

8. However, the facts of this instant case are distinguishable inasmuch as there was no delay in such consideration as the rejection is of the year 2018 itself. That apart, rejection of the SLC also contains ground which in the opinion of this Court cannot be held to be irrelevant.

9. Under such circumstances, the instant writ petition stands dismissed.

JUDGE

Comparing Assistant