

GAHC010191942023



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

Case No. : WP(C)/5291/2023

DHANANJAY RAY
S/O LATE DAMAN SING RAY, R/O VILL- BARNARIKOLA (UJANPARA), P.O.-
SRIJANGRAM, P.S.-ABHAYAPURI, DIST- BONGAIGAON, ASSAM, PIN-783384

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM, DEPARTMENT OF PUBLIC WORKS (PWD), DISPUR, GUWAHATI-
781006

2:THE EXECUTIVE ENGINEER
PWD
BONGAIGAON R.R. DIVISION
BONGAIGAON
ASSAM
PIN-783380

3:THE ASSISTANT EXECUTIVE ENGINEER
PWD
ABHAYAPURI R.R. DIVISION
ABHAYAPURI
BONGAIGAON
ASSAM
PIN-783384

4:THE DEPUTY COMMISSIONER
BONGAIGAON
ASSAM, PIN-78338

Advocate for the Petitioner : MR. U SAIKIA
Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

15-09-2023

Heard Shri U. Saikia, learned counsel for the petitioner. Also heard Ms. M. Bhattacharyya, learned Addl. Senior Govt. Advocate, Assam and Shri M. Bhuyan, learned counsel appearing for the Public Works Department (PWD).

The issue in this petition pertains to a claim for appointment on compassionate ground.

It is the case of the petitioner that his father Daman Sing Ray was a Regular Muster Roll Labourer in the Office of the Assistant Executive Engineer, PWD, Abhayapuri who had died-in-harness on 25.10.2011. The petitioner claims to have applied for appointment on compassionate ground by submitting an application on 25.01.2012. The same was followed by filing a writ petition being WP(C) No. 503/2013 which was disposed of vide an order dated 05.03.2013 by directing placing of the matter before the DLC Bongaigaon. As no information was forthcoming, the petitioner had filed another writ petition being WP(C) No. 6539/2016. The said petition came up for consideration on 28.01.2021 when the petitioner was not represented. However, the Court was apprised of the minutes of the DLC Meeting dated 13.06.2013 and 14.06.2016 in which the petitioner's case was rejected. The said rejection is the subject matter of challenge in the present writ petition.

Shri Saikia, the learned counsel for the petitioner has submitted that the rejection has been made on irrelevant consideration and therefore this writ petition is liable to be allowed with a direction for fresh consideration.

The aforesaid prayer has however been opposed by both Ms. Bhattacharyya, the learned Addl. Senior Govt. Advocate as well as Shri Bhuyan, the learned counsel for the Department by submitting that the grounds cited in the rejection order are

relevant and will not require any interference. It is also submitted that the when the earlier writ petition being WP(C) No. 6539/2016 was decided on 28.01.2021, the minutes of meeting was placed before this Court and unless the said order is modified/reviewed, the petitioner cannot maintain the present challenge.

After hearing the parties and on consideration of the materials on record, this Court has noted that the death of the government servant was in September, 2011. The entire objective of the Scheme for appointment on compassionate ground which is a deviation from the normal recruitment process is to overcome the immediate crises faced by a bereaved family on the death of the sole breadwinner. In the instant case, more than 12 years have passed from the said death. This Court has also noticed that when the earlier writ petition being WP(C) No. 6539/2016 was considered on 28.01.2021, the impugned minutes of meeting dated 14.06.2016 was brought to the light and even if it is assumed that the petitioner was not earlier aware of such minutes, he became aware of the same at least on 28.01.2021. There is no explanation as to why the petitioner has taken time of more than 1 year 8 months to thereafter file this present petition. In any case, this Court has found favour in the submission made on behalf of the respondents that unless the order dated 28.01.2021 passed by this Court is modified, the instant writ petition is not maintainable.

In view of the above, the writ petition stands dismissed.

JUDGE

Comparing Assistant