

GAHC010193832023



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

Case No. : WP(C)/5264/2023

ANUPAM SAIKIA
S/O LATE - ANANTA SAIKIA. R/O- TARAPUR E AND D COLONY , P.O-
TARAPUR, DIST - CACHAR (ASSAM)

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM, IRRIGATION DEPARTMENT, DISPUR,
GUWAHATI- 781006

2:THE CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM CUM CHAIRMAN
STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
DISPUR
GUWAHATI -6

3:THE SECRETARY TO THE GOVERNMENT OF ASSAM
IRRIGATION DEPARTMENT
DISPUR
GUWAHATI- 781006

4:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI -781006

5:THE CHIEF ENGINEER
IRRIGATION
ASSAM
CHANDMARI
GUWAHATI- 781003

6:THE DISTRICT LEVEL COMMITTEE
REPRESENTED BY THE DEPUTY COMMISSIONER
SILCHAR
CACHAR. P.O- SILCHAR AND DIST- CACHAR. PIN - 78800

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

13.09.2023

- 1.** Heard Shri F.A. Laskar, learned counsel for the petitioner, who by means of this petition has made a claim for consideration of his appointment on compassionate ground.
- 2.** It is the case of the petitioner that his father Ananta Saikia was working as a helper in the office of the Executive Engineer, Silchar Mechanical Division (Irrigation) who had died in harness on 27.03.1999. On such death, it is stated that the mother of the petitioner had filed an application for compassionate appointment on 23.08.1999 as at that time the petitioner was a minor and did not have the qualification. There is no further reference to the application by the petitioner. Admittedly, the petitioner had subsequently filed an application for compassionate appointment on 30.11.2009. The District Level Committee in its meeting dated 23.07.2010 had recommended the name of the petitioner. However, the State Level Committee in its meeting dated 29.09.2012 had rejected the case on the ground that the petitioner had applied for appointment before attaining the age of 18 years.
- 3.** The aforesaid decision was the subject matter of challenge in a writ petition being WP(C) No. 1806/2014. This Court however noticing that the rejection was

erroneous as the petitioner was more than 18 years, had interfered with the said decision vide an order dated 02.04.2014 and directed reconsideration of the case of the petitioner by the State Level Committee.

4. The SLC however by a subsequent speaking order dated 29.04.2015 had rejected the case of the petitioner that the initial application was filed after a lapse of 10 years.

5. The said decision was also the subject matter of challenge in another writ petition WPC 666/2022. This Court however vide order dated 28.04.2022 had disposed of the aforesaid writ petition by interfering with the said rejection dated 29.04.2015 with a direction to comply with the earlier judgment dated 02.04.2014 passed in the earlier petition WPC 1806/2014.

6. Upon such remand, the SLC has rejected the case of the petitioner vide communication dated 02.03.2023 on the ground that the application was filed after 10 years of the death of the father.

7. The learned counsel for the petitioner has submitted that such rejection could not have been done as the reason assigned is the same which was given in the earlier resolution dated 29.04.2015 which was set aside by this Court and therefore the present impugned order is liable to be interfered with.

8. Also heard Ms. G.S. Neog, learned Standing Counsel for the Irrigation Department as well as Ms. M. Bhattacharya, learned Addl. Senior Government Advocate and Shri P. Nayak, learned Standing Counsel, Finance Department.

9. The learned counsel for the respondents have however submitted that the

rejection made by the impugned order dated 02.03.2023 is in accordance with law as the death was in the year 1999 and under the scheme, there is no requirement for any such consideration after an inordinate delay.

10. The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

11. The contention of the learned counsel for the petitioner is that the earlier rejection on the ground of delayed submission conveyed vide speaking order dated 29.04.2015 having been interfered with by this Court in the earlier round of litigation, the same ground could not have been taken recourse of.

12. Though at the first blush, the aforesaid submission appears to be impressive, the said submission has to be tested with the order passed by this Court on 02.04.2014 in the first writ petition WPC 1806/2014 as it is that order which is the foundation of the subsequent order dated 28.04.2022. The materials on records makes it clear that the cause of action in the first round of litigation in WP(C)/1806/2014 was admittedly a rejection on the ground that the petitioner had not attained the age of 18 years. This Court on noticing that such rejection was erroneous had interfered by holding that the petitioner was more than 18 years of age and eligible and accordingly a direction was given for consideration. On such remand, the matter was considered by the SLC which however had rejected the application on the ground that the same was submitted after a lapse of 10 years. Though such rejection was the subject matter of challenge in the second writ petition WPC 666/2022, it appears that the order of this Court dated 28.04.2022, disposing of the said writ petition was on a submission made that delayed submission of the application was the ground in the first writ petition which is factually erroneous. In fact, the entire order dated 28.04.2022 has revolved upon the

earlier decision dated 02.04.2014 passed in the first writ petition 1806/2014 which is the edifice of the present dispute.

13. It being clear that delayed submission not being the subject matter of the initial challenge and in the subsequent consideration, the said reason has been cited to reject the application of the petitioner, the validity of the said reason has to be examined independently. In the opinion of this Court, the entire objective of the scheme for appointment on compassionate ground being to overcome the immediate crisis faced by a bereaved family which has lost the sole bread earner, the factor of delay of more than 10 years which has been considered by the State Level Committee cannot be said to be an irrelevant factor and rather in the opinion of this Court, the same is a relevant factor which has been rightly taken into consideration.

14. In any case, when the death of the government servant is of the year 1999, when admittedly, the petitioner was a minor, there is no requirement in law for the authorities to wait till such period when an aspirant becomes a major.

15. Under those facts and circumstances, this Court does not find any merits in this writ petition and accordingly the same is dismissed.

JUDGE

Comparing Assistant