

GAHC010207422018



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

Case No. : WP(C)/6421/2018

BHASKAR JYOTI DAS
S/O- LATE BIPIN CH DAS, R/O- VILL- MURMELA, P.O- MURMELA, P.S-
BARAMA, DIST- BAKSA, ASSAM, PIN- 781346

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
PANCHAYAT AND RURAL DEPTT, DISPUR, GUWAHATI- 6

2:THE DIRECTOR OF PANCHAYAT AND RURAL DEPTT
PANJABARI
JURIRPAR
GHY- 37

3:THE DIRECTOR OF PANCHAYAT AND RURAL DEPTT
BTAD
BAKSA
ASSAM

4:THE JOINT DIRECTOR OF PANCHAYAT AND RURAL DEPTT
BTAD
BAKSA
ASSAM

5:THE DEPUTY COMMISSIONER
BAKSA
P.O
P.S AND DIST- BAKSA
ASSAM

6:THE BLOCK DEVELOPMENT OFFICER

TAMULPUR PANCHAYAT AND RURAL DEPTT
BTAD
BAKSA
ASSAM

7:THE CHIEF EXECUTIVE OFFICER
TAMULPUR
PANCHAYAT AND RURAL DEPTT
BTAD
BAKSA
ASSA

Advocate for the Petitioner : MR B ISLAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER**

21/07/2023

Heard Mr. B. Islam, learned counsel for the petitioner. Also heard Ms. R. B. Bora, learned standing counsel, BTC appearing for respondent Nos. 3, 4, 5 and 6 and Mr. N. K. D. Nath, learned standing counsel, P & RD for respondent Nos. 1 and 2.

2. The petitioner applied for appointment on compassionate ground under the died-in-harness scheme of the Government of Assam as his father late Bipin Chandra Das, who was serving as a Peon in the office of the Block Development Officer, Tamulpur Development Block under the Department of Panchayat and Rural Development, died in harness on 25.09.2010 while in service. Since there was no other earning member of the family, the petitioner is applied for appointment on compassionate ground through his mother on 23rd November, 2010. However, the District Level Committee in its meeting held on 22.06.2017 rejected the case of the petitioner as the appointment on compassionate ground

are required to be considered in respect of 5% of the vacancies. On the date when the matter was considered by the DLC, there were 3 (three) posts available and therefore, if the 'yardstick of 5% of the vacancy' is to be applied then the vacancy comes to 0.15% and as such the case of the petitioner was not considered.

3. Being aggrieved the present application has been filed.

4. Notice in the matter was issued on 17.09.2018.

5. Today when the matter was called up, Ms. R. B. Bora, learned standing counsel, BTC appeared before the Court and furnished the copy of the instructions addressed by the Secretary, BTC, Kokrajhar. In terms of the instructions which is produced before the Court it is seen that the cases for appointment under compassionate ground are now required to be re-considered by the BTC by constituting its own DLSC for the six scheduled districts under the BTC jurisdiction in accordance with the order dated 22.03.2012 passed in WP(C)/ 2451/2011 (BTC Vs State of Assam and ors). In that view of the matter, the BTC has informed that all cases which were earlier considered by the Deputy Commissioner of the respective districts will now be re-considered again afresh by the DLC constituted by the BTC. Learned counsel appearing for the BTC submits that the case of the petitioner will also be considered as per the guidelines applicable.

6. In the instructions received and a copy of which is furnished before this Court, it is stated that the cases of appointment under compassionate ground were initially dealt by the Deputy Commissioner of the district concerned within the Sixth Schedule area prior to the notification vide Memo No.BTC€-445/2008/Pt-II/232, dated 15.06.2012 issued by the BTC authority wherein the

BTC constituted its own DLSC for the Sixth Schedule districts under BTC jurisdiction in accordance with Hon'ble Gauhati High Court order dated 22.03.2012 passed in WP© No.2451/2011, Bodoland Territorial Council –Vs- The State of Assam & Ors. Therefore, BTC started consideration of compassionate ground applications only after the aforesaid notification was issued. In terms of the said Notification the DCs of the districts started forwarding the application of candidates of various entrusted department of BTC to the Principal Secretary of BTC who is the Chairman of the DLSC of each district of BTC area.

7. Learned counsel for the respondent submits that in view of the instructions received the case of the petitioner will be re-considered and therefore all his grievances will be addressed by the BTC when it considers the case of the petitioner afresh in terms of the applicable guidelines.

8. Mr. B. Islam, learned counsel for the petitioner does not object to the submissions made by the learned counsel for the respondents.

9. In that view of the matter, this writ petition stands closed by considering the submissions made by the learned standing counsel of the BTC and which are also not opposed by the learned counsel for the petitioner. The BTC is directed to re-consider the case of the petitioner for appointment on compassionate ground in terms of the applicable guidelines. The entire exercise will be completed within a period of 3 (three) months from the date of receipt of certified copy of this order. Any such order that may be passed by the BTC, copy thereof, shall be furnished to the petitioner.

10. Writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant