

GAHC010212302022



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

Case No. : WP(C)/6768/2022

DEBARATI DEB
D/O- LT. GANESH CHANDRA DEB, R/O- KRISHNANAGAR (SHIB COLONY),
P.O. RANGIRKHARI, DIST.- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT., DISPUR, GHY-6

2:THE STATE LEVEL COMMITTEE FOR SELECTION OF CANDIDATES FOR
APPOINTMENT ON COMPASSIONATE GROUND
(REP. BY ITS CHAIRMAN
CHIEF SECY. TO THE GOVT. OF ASSAM)
DISPUR
GHY-06

3:THE DISTRICT LEVEL COMMITTEE
CACHAR FOR SELECTION OF CANDIDATES FOR APPOINTMENT ON
COMPASSIONATE GROUND
P.O. SILCHAR
DIST.- CACHAR
ASSAM (REP. BY ITS CHAIRMAN-CUM-DY. COMMISSIONER
CACHAR)
PIN- 788001

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

5:THE DY. INSPECTOR OF SCHOOLS

CACHAR
SILCHAR
P.O. SILCHAR DIST.- CACHAR
ASSAM
PIN- 788001

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CACHAR
SILCHAR
P.O. SILCHAR DIST.- CACHAR
ASSAM
PIN- 78800

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 23-11-2023

Heard Mr. N. Haque, learned counsel for the petitioner. Also heard Mr. Ganesh Pegu, learned counsel for the Elementary Education Department of Government of Assam and Mr. P. Saikia, learned Junior Government Advocate for the Deputy Commissioner, Cachar.

2. The father of the petitioner Ganesh Chandra Deb who was the Head Teacher in Rashbehari Govt. Junior Basic School, Rongpur in Cachar district died in harness on 11.11.2016 and on his death the petitioner submitted an application for compassionate appointment on 02.02.2022. At the time when the deceased died admittedly the petitioner was a minor and later on, upon attaining the majority and also the necessary qualifications she made the application in the year 2022. The said application was considered by the DLC of Cachar district in its meeting of 02.02.2022 and upon considering the availability

of vacancies as well as the qualification of the petitioner she was recommended for compassionate appointment against the post of Assistant Teacher in an LP School.

3. When the recommendation of the DLC was placed before the SLC, the SLC in its meeting of 26.08.2022 rejected the recommendation made in favour of the petitioner, which is extracted as below:

6	Smti Debarati Deb	DLC-	Lt. Ganesh Ch. Das	Daughter	AT-LP	As the candidate applied after One (1) year, he is rejected due to non-availability of norms as per O.M. dated ABP.50/2006/Pt/182 dated 01-06-2015.
		2/02/2022				

4. A reading of the order of the SLC makes it discernible that firstly the SLC made an observation that the application of the petitioner was made after one year of the death of the deceased but the reason of rejection is stated to be non-availability of norms as per O.M. dated 01.06.2015. The order of the SLC appears to be an unreasoned order as nothing is stated as to why the SLC is of the view that the petitioner does not satisfy any norms provided under the O.M. dated 01.06.2015. Any unreasoned order would have to be construed to be an arbitrary order under the law and would invite for being set aside.

5. As regards the observation that the petitioner applied after one year, we have already noted that the deceased died in the year 2016 and the application was made in the year 2022 with an explanation that at the time of death the petitioner was a minor and later on, she, upon attaining majority, obtained necessary qualifications and made the application for compassionate appointment.

6. The law in this respect has been settled by the Hon'ble Supreme Court in

its judgment of *Syed Khadim Hussain vs. State of Bihar and others reported in (2006) 9 SCC 195* and the proposition thereof would prevail as regards the application made by a minor which would mean that an application of a person who was a minor at the time of death cannot be rejected outright merely because it was made after one year of death.

7. Upon setting aside the rejection of the SLC the matter stands remanded back to the SLC to be placed before the next available SLC considering the recommendation made by the DLC in favour of the petitioner on its true merit and not on other extraneous technical grounds as sought to be made out.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant