

GAHC010212502023



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

Case No. : WP(C)/5515/2023

TAHIR AHMED CHOUDHURY
S/O- LATE SOROF UDDIN CHOUDHURY,
VILL- BAHADURPUR PART II,
P.O- BROJOPUR,
P.S AND DIST- HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPARTMENT
DISPUR, GUWAHATI-6.

2:THE DISTRICT LEVEL COMMITTEE
HAILAKANDI

REP. BY THE DEPUTY COMMISSIONER
HAILAKANDI

P.O AND DIST- HAILAKANDI
ASSAM

3:THE INSPECTOR OF SCHOOLS
HAILAKANDI
HAILAKANDI

P.O AND DIST- HAILAKANDI
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI

P.O AND DIST- HAILAKANDI
ASSA

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

27.09.2023

Heard Mr. FA Laskar, learned counsel for the petitioner, Ms. P Das, learned counsel for the respondents in the Secondary Education Department, Government of Assam and Mr. Girin Pegu, learned Additional Senior Government Advocate for the Deputy Commissioner, Hailakandi.

2. The father of the petitioner Sorof Uddin Choudhury, who was working as an Arabic Teacher in the N.T Model High School in the Hailakandi district, died in harness on 05.08.1998 and on his death, the mother of the petitioner made an application for compassionate appointment on 03.09.1998. But at that relevant point of time, the petitioner was a minor and upon attaining majority, the petitioner made another application dated 09.06.2010. Both the applications i.e. the one submitted by the mother of the petitioner and one by the petitioner were considered by the DLC of Hailakandi district in its meeting dated 05.10.2021 and the application of the petitioner was rejected by providing that at the time of submission of the application, the petitioner was a minor being aged about 08 years 07 months and 07 days and therefore, as per the Office Memorandum dated 01.06.2015 it stood rejected.

3. Mr. Girin Pegu, learned Additional Senior Government Advocate for the

Deputy Commissioner, Hailakandi clarifies that clause 16 of the Office Memorandum dated 01.06.2015 was relied upon for rejecting of the application of the petitioner which provides that an applicant for compassionate appointment ought to be a major.

4. It is noticed that there are two applications in the instant case, one by the mother on 03.09.1998 when the petitioner was a minor and another by the petitioner himself on 09.06.2010 when he attained majority. In any view of the matter, as per the law laid down in paragraph 19 of the Judgment of the Hon'ble Supreme Court in *N.C Santosh –vs- State of Karnataka and others*, reported in (2020) 7 SCC 617 in paragraph 19 it had been held that the law governing compassionate appointment is that the norms prevailing on the date of consideration of the application should be the basis for consideration of the claim for compassionate appointment. Accordingly, on the date of consideration i.e. 05.10.2021, it is an admitted position that the petitioner was a major.

5. In such view of the matter, the rejection by the DLC of Hailakandi district in its meeting dated 05.10.2021 in respect of the application of the petitioner stands set aside and the matter is remanded back to be placed again before the next available DLC of Hailakandi district for a fresh consideration on merit as per law.

The writ petition is allowed to the extent as indicated above.

JUDGE

Comparing Assistant