

GAHC010213202023



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

Case No. : WP(C)/5539/2023

TULIKA DUTTA BHUYAN
W/O LATE ARABINDA BHUYAN, R/O CHAMATA, P.O.-WEST CHAMATA, P.S.-
BELSOR, DIST-NALBARI (ASSAM), PIN-781308

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, IRRIGATION DEPARTMENT, DISPUR, GUWAHATI-06

2:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT
GOVT OF ASSAM
CHANDMARI
GUWAHATI-3

3:THE EXECUTIVE ENGINEER
NALBARI DIVISION (IRRIGATION)
DIST-NALBARI
ASSAM
PIN-781353

4:THE DEPUTY COMMISSIONER
DIST-NALBARI
ASSAM
PIN-781335

5:THE ADDL. DEPUTY COMMISSIONER
DIST-NALBARI
ASSAM
PIN-78133

Advocate for the Petitioner : G UDDIN

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

22.09.2023

Heard Mr. A.K. Azad, learned counsel for the petitioner, who submits that the petitioner's husband who was working as Khalashi in the office of the Executive Engineer, Nalbari, Division(Irrigation) died in harness on 28.09.2013, leaving behind the petitioner alongwith three daughters. The petitioner submitted an application for compassionate appointment. The District Level Committee (DLC) in its Meeting Minutes dated 25.07.2016, rejected the prayer of the petitioner for compassionate appointment on the ground that 5% of the total cadre strength/man in position for appointment on compassionate ground did not allow for consideration of the application, as two years had passed in terms of the Government Office Memorandum.

2. The further case of the petitioner is that the petitioner came to know of the rejection of her application for compassionate appointment only in the year 2018. Thereafter, the elder daughter of the petitioner filed an application for compassionate appointment on 17.02.2022. The petitioner's prayer in this writ petition is to set aside and quash the DLC Meeting Minutes dated 24.06.2016, rejecting the petitioner's application for compassionate appointment and to consider either the name of the petitioner or her daughter for appointment on compassionate ground.

3. Ms. D.S. Neog, learned counsel appears for the respondent Nos. 1, 2 & 3. She submits that the petitioner's application for compassionate appointment having been rejected by the DLC in the year 2016, the present writ petition should be dismissed on grounds of delay and laches. She further submits that as the rejection of the petitioner's application had been made

due to want of vacancies and as the petitioner's application had lost its force as there were no vacancies available for two years, during the validity of her application for compassionate appointment, there was no infirmity with the rejection of the petitioner's application for compassionate appointment.

4. A perusal of the pleadings shows that only the petitioner has approached this Court and the daughter of the petitioner is not before this Court and as such, the prayer for consideration of her daughter's case does not arise.

5. With regard to the petitioner's application for compassionate appointment, it is seen that the petitioner's application had been rejected in the year 2016 and it is the petitioner's case that she came to know of the same in the year 2018. The DLC Meeting Minutes implies that due to the man in position in respect of the 5% quota reserved for compassionate appointment, the petitioner's application for compassionate appointment could not be considered due to want of vacancy and that the application had lost its force, as two years had elapsed from the date of submission of the petitioner's application.

6. In the case of *AchyatRanjan Das Vs. State of Assam & Others*, reported in (2006) 4 GLT 674, this Court had laid down 10 guidelines for consideration of cases for compassionate appointment, which were adopted by the State Government, of which Guideline No. 'X' states as follows:

“X) If the applications of eligible candidates remain pending and cannot be considered due to want of vacancies for a period of 2 (two) years from the date of making such applications, all such applications will require no further consideration and must be understood to have spent their force.”

7. In the present case, there is no averment made by the petitioner that there were vacancies available for consideration of the petitioner's case for compassionate appointment during the two year validity of the petitioner's application for compassionate appointment.

8. As can be seen from the pleadings, the petitioner's application for compassionate appointment was rejected by the DLC on 24.06.2016. Even though the petitioner has taken a stand that she came to know of the rejection of her application only in the year 2018, the fact remains that the petitioner has approached this Court challenging the DLC decision after five years, i.e. on 19.09.2023.

9. The petitioner's husband died in the year 2013 and ten years have passed since then. The object of compassionate appointment being to mitigate the immediate hardship caused to a family due to death of the bread earner, it has to be remembered that an application for compassionate appointment should be considered at an early date. Appointment on compassionate ground cannot be claimed as a matter of right and it is only a concession made, keeping in view the object of providing succour to the family of the deceased in the time of their sudden need, due to the untimely death of the bread earner. It should be remembered that when a number of years have gone by from the date of death of the Government servant, the object of providing compassionate appointment loses its relevance. In the present case, the petitioner's application was rejected by the DLC in the year 2016 and as such seven years have passed since then. Even if we are to accept the petitioner's contention that she came to know of the rejection of her application only in the year 2018, then also the petitioner has delayed her challenge to the DLC decision by five years. Accordingly, this Court is of the view that the present writ petition is hit by delay and laches.

10. The above being said, the prayer of the petitioner to direct the respondents to consider her daughter's application for compassionate appointment cannot be granted for the simple reason that the daughter is not a party to the writ petition and as such cannot be said to be an aggrieved person. The daughter has also not given any authority to the petitioner to file the present writ petition on her behalf. Further, in terms of the decision of this Court in *Faziron Nessa vs. State of Assam*, reported 2010 (4) GLT 340, the time limit for submission of an application for compassionate appointment is one year, to be counted from the date of death of the Government servant. In the present case, the petitioner's daughter has submitted an application for compassionate appointment only on 17.02.2022.

11. In view of the reasons stated above, this Court is not inclined to exercise its discretion in the present case.

12. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant