

GAHC010084512018



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

Case No. : WP(C)/2609/2018

CHUITY BAISHYA
D/O- LATE CHAKRESWAR BAISHYA, R/O- VILL- DHAMDHAMA, P.O- NIZ
DHAMDHAMA, P.S- GHAGRAPAR, DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
SECONDARY EDUCATION DEPTT, DISPUR, GUWAHATI-6

2:THE DIRECTOR
SECONDARY EDUCATION
KAHILIPARA
ASSAM
GUWAHATI- 19

3:THE INSPECTOR OF SCHOOL
NALBARI DISTRICT CIRCLE
DIST- NALBARI
ASSAM

4:THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
REP. BY ITS CHIRMAN
THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GHY- 6

5:THE DEPUTY COMMISSIONER
NALBARI
CHAIRMAN OF THE DISTRICT LEVEL COMMITTEE
NALBARI
ASSA

Advocate for the Petitioner : MR. P K GOSWAMI

Advocate for the Respondent : SC, SEC. EDU.

Linked Case : WP(C)/3168/2022

BIKRAM NATH
S/O- LATE GUNARAM NATH
VILL.- JATAKIA NATH GAON
P.O. JATAKIA
DIST. SIVASAGAR
ASSAM
PIN- 785666.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
DEPARTMENT OF EDUCATION (HIGHER)
ASSAM
DISPUR
GUWAHATI
PIN- 781006.

2:THE DIRECTOR OF HIGHER EDUCATION

KAHILIPARA
GUWAHATI
PIN- 781019.

3:THE DISTRICT LEVEL COMMITTEE
SIVASAGAR DISTRICT
REPRESENTED BY ITS DEPUTY COMMISSIONER
DIST. SIVASAGAR
PIN- 785640.

4:THE DEPUTY COMMISSIONER
CUM CHAIRMAN DISTRICT LEVEL COMMITTEE
SIVASAGAR
DIST. SIVASAGAR
PIN- 785640.

5:THE PRINCIPAL CUM SECRETARY

SIBSAGAR COLLEGE

JOYSAGAR

P.O. JOYSAGAR

DIST. SIVASAGAR

PIN- 785665.

6:THE STATE LEVEL COMMITTEE

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR

GUWAHATI

ASSAM

PIN- 781006.

Advocate for : MR. C BORUAH

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS.

Linked Case : WP(C)/7404/2022

JITU DAS

S/O LT. MAINIRAM DAS

R/O VILL- GHARMORA

P.O.-GHARMORA

P.S.-NORTH LAKHIMPUR

DIST- LAKHIMPUR

ASSAM

PIN-787032

VERSUS

THE STATE OF ASSAM AND 4 ORS

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM

STATE LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND

DISPUR

GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM

PHE DEPARTMENT

DISPUR

GUWAHATI-781006

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF PERSONNEL

PERSONNEL (B)

ASSAM

DISPUR

GUWAHATI-6
4:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
HENGARABARI
HEALTH COMPLEX
HENGARABARI ROAD
GUWAHATI-781036
5:THE DEPUTY COMMISSIONER
-CUM- CHAIRMAN
DISTRICT LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND
LAKHIMPUR
ASSAM
PIN-787001

Advocate for : MR. B GOGOI
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/3639/2022

MEHBUB ALAM MAZUMDER
S/O. LT. SAMSUL HOQUE MAZUMDER
VILL. AND P.O. ALGAPUR PART-V
P.S. ALGAPUR
PIN-788150
DIST. HAILAKANDI
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH- THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-781019.
3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI
P.O. AND P.S. HAILAKANDI
DIST. HAILAKANDI
ASSAM.
4:THE DEPUTY INSPECTOR OF SCHOOLS

HAILAKANDI
P.O. AND P.S. HAILAKANDI
DIST. HAILAKANDI
ASSAM.
5:THE DISTRICT LEVEL COMMITTEE FOR APPOINTMENT ON
COMPASSIONATE GROUND

REP. BY ITS DEPUTY COMMISSIONER
HAILAKANDI
DIST. HAILAKANDI
ASSAM.

Advocate for : MS. S SEAL
Advocate for : SC
EDU appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/7872/2019

BEDABROT SAIKIA
S/O. LT. GUNIN SAIKIA
R/O. SARULANGTHA
P.O. DHANSIRI SARUPATHAR
DIST. GOLAGHAT
ASSAM.

VERSUS

THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT AND
5 ORS.

REP. BY ITS CHAIRMAN
THE CHIEF SECRETARY
TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-781006.

2:THE CHIEF SECRETARY

TO THE GOVT. OF ASSAM
DEPTT. OF PERSONNEL

PERSONNEL B
DISPUR
GUWAHATI-06.
3:THE STATE OF ASSAM

REP. BY SECRETARY
TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GUWAHATI-781006.
4:THE COMMISSIONER

DEPTT. OF PANCHAYAT AND RURAL DEVELOPMENT
PANJABARI
JURIPAR
P.O. SIXTH MILE
KHANAPARA
GUWAHATI
781037.
5:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
GENERAL ADMINISTRATION DEPTT.
DISPUR
GUWAHATI-06.
6:THE DIST. LEVEL COMMITTEE

FOR COMPASSIONATE APPOINTMENT GOLAGHAT
REP. BY ITS CHAIRMAN THE DY. COMMISSIONER
GOLAGHAT
ASSAM
PIN-785621.

Advocate for : MR. A SARMA
Advocate for : GA
ASSAM appearing for THE STATE LEVEL COMMITTEE FOR COMPASSIONATE
APPOINTMENT AND 5 ORS.

Linked Case : WP(C)/6877/2022

SHEIKH MD. SAIDUL ISLAM
S/O- LT. ABDUS SATTAR
R/O- VILL- KALGACHIA
P.S. AND P.O. KALGACHIA
DIST.- BARPETA (ASSAM)
PIN- 781319

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM
CHAIRMAN
STATE LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND
DISPUR
GHY-6
ASSAM

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF PANCHAYAT AND RURAL DEVELOPMENT
GOVT. OF ASSAM
DISPUR
GHY-6
ASSAM

3:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF PERSONNEL
PERSONNEL B
ASSAM
DISPUR
GHY-6

4:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
ASSAM
PANJABARI
JURIPAR
GHY-37

5:THE DY. COMMISSIONER CUM CHAIRMAN
DISTRICT LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND
DIST.- BARPETA
ASSAM
PIN- 781301

6:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
BARPETA
DIST.- BARPETA (ASSAM)
PIN- 781301

Advocate for : MR. K R PATGIRI

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3087/2022

KESHAB KUMAR CHETRY
S/O- LATE GOPL BAHADUR YOGI
R/O- GOSAIGAON GAKHIR CHOWK

PASCHIM BORAGAON

P.O AND P.S- GARCHUK
DIST- KAMRUP (M)
ASSAM
PIN-781035

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
DEPTT. OF SECONDARY EDUCATION
ASSAM
DISPUR
GUWAHATI-781006

2:THE STATE LEVEL SELECTION COMMITTEE
REP. BY THE CHIEF SECRETARY
GOVT. OF ASSAM
DISPUR
GUWAHATI-06

3:THE DIRECTOR
OF SECONDARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT LEVEL COMMITTEE
REP. BY THE DEPUTY COMMISSIONER
KAMRUP (M)
PANBAZAR
GUWAHATI-781001

5:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
PANBAZAR
GUWAHATI- 781001

Advocate for : MR. B CHETRI
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 4 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 01.02.2023

Heard Mr. P.K. Goswami, Mr. K.R. Patgiri, Mr. B. Chetri, Mr. C. Baruah and Ms. S. Kanungoe, learned counsels appearing on behalf of the petitioners and Mr. D. Nath, learned counsel appearing on behalf of the State Govt.

2. The current batch of writ petitions have been filed by the petitioner being aggrieved by the rejection of their application for compassionate appointment by the State Level Committee/ District Level Committee for Compassionate Appointment on the ground that as per the Clause-1 of the Office Memorandum dated 01.06.2015, the dependants of a Govt. servant who had died in harness having less than 3 (three) years of service have been made ineligible for being considered for compassionate appointment.

3. This Court vide judgment and order dated 30.01.2023 passed in *WP(C) 1646/2021, Bhaskar Konwar Vs. the State of Assam & Ors.*, and other connected matters had held that Clause-1 of the Office Memorandum dated 01.06.2015 insofar as depriving the dependents of Govt. servants who had died in harness having less than 3 (three) years of service from being not eligible to be considered for compassionate appointment as unconstitutional, being violative of Article 14 of the Constitution of India and have accordingly struck down Clause-1 of the said Office Memorandum to the extent that deprives the dependants of Govt. servant who have died in harness having less than 3 (three) years of service to be not eligible for compassionate appointment. In the present batch of writ petitions, it is seen from the impugned orders that the application of the petitioners herein have been rejected by the State Level

Committee/District Level Committee for Compassionate Appointment as the case may be solely on the ground that the petitioners claiming consideration for compassionate appointment were not eligible as the Govt. servant in question who died in harness did not have the balance of minimum 3 (three) years of service. Taking into consideration the abovementioned judgment and order of *Bhaskar Konwar (supra)*, this Court interferes with the various order of rejection by the State Level Committee/District Level Committee for Compassionate Appointment as the case may be in the following manner:

4. WP(C) 2609/2018

In the instant case, the State Level Committee in their meeting held on 05.06.2017 had rejected the case of the petitioner on the ground that the remaining service period of the deceased Govt. servant was less than 3 years. The minutes of the meeting dated 05.06.2017 of the State Level Committee and more particularly at Sl. No. 10 stands interfered with a direction to the State Level Committee to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

5. WP(C) 7872/2019

Mr. K.R. Patgiri, learned counsel appearing on behalf of the petitioner in the instant case, during the course of hearing had produced the minutes of State Level Committee meeting held on 15.02.2019, whereby the case of the petitioner was rejected. The said minutes of the meeting dated 15.02.2019 is kept on record and marked with letter 'X'.

From a perusal of the said minutes, it appears that the petitioner's

case was rejected on the ground that the deceased Govt. servant did not have the minimum balance of 3 years service. The minutes of the meeting dated 15.02.2019 of the State Level Committee and more particularly at Sl. No. 13 of paragraph 8 stands interfered with a direction to the State Level Committee to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

6. WP(C) 3087/2022

In the instant case, the State Level Committee in their meeting held on 01.03.2022 had rejected the case of the petitioner on the ground that the remaining service period of the deceased Govt. servant was less than 3 years. The minutes of the meeting dated 01.03.2022 of the State Level Committee stands interfered with only to the extent of rejection of the petitioner under Kamrup Metro district with a direction to the State Level Committee to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

7. WP(C) 3168/2022

In the instant case, the District Level Committee in their meeting held on 12.01.2022 had rejected the case of the petitioner on the ground that the remaining service period of the father of the petitioner was less than 3 years. The minutes of the meeting dated 12.01.2022 of the District Level Committee and more particularly at Sl. No. 2 stands interfered with and the District Level Committee, Sivasagar are/is directed to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without

insisting upon the requirement of clause-1 of the said Office Memorandum.

8. WP(C) 3639/2022

In the instant case, the petitioner has challenged the order dated 11.10.2021 issued by the Deputy Commissioner & Chairman District Level Committee, Hailakandi, whereby the petitioner's application for compassionate appointment was rejected on the ground that the Govt. servant in question against whom the petitioner had submitted his application had only 28 days service left. The said order dated 11.10.2021 stands interfered with a direction to the District Level Committee, Hailakandi to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

9. WP(C) 6877/2022

In the instant case, the State Level Committee in their meeting held on 02.08.2022 had rejected the case of the petitioner on the ground that the remaining service period of the deceased Govt. servant was less than 3 years. The minutes of the meeting dated 02.08.2022 of the State Level Committee insofar as Sl. No. 4 of paragraph 7(B) stands interfered with a direction to the State Level Committee to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

10. WP(C) 7404/2022

In the instant case, the State Level Committee in their meeting held on 10.02.2022 had rejected the case of the petitioner on the ground that the remaining service period of the deceased Govt. servant was less than 3 years.

The minutes of the meeting dated 10.02.2022 of the State Level Committee and more particularly at Sl. No. 108 stands interfered with a direction to the State Level Committee to reconsider the case of the petitioner on the basis of Office Memorandum dated 01.06.2015 without insisting upon the requirement of clause-1 of the said Office Memorandum.

11. In view of above observation and direction, the State Level Committee/District Level Committee for Compassionate Appointment as the case may be, upon certified copy of this order being served upon, the concerned head of the department as well as the Chairman of the State Level Committee/District Level Committee for Compassionate Appointment as the case may be shall reconsider the cases of the petitioners by taking into account the requirements in terms with the Office Memorandum dated 01.06.2015 and more particularly to the principles stipulated therein without insisting up on the requirement of Clause-1 of the Office Memorandum dated 01.06.2015. The same shall be considered within a period of 2 (two) months from the date the certified copy is served upon as directed herein above.

12. With the above observation and direction, the instant batch of writ petitions stands disposed of.

JUDGE

Comparing Assistant