

GAHC010217382022



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

Case No. : WP(C)/7010/2022

PROBINA BORAH
WIFE OF LATE DHARMESWAR BORAH,
R/O- VILLAGE- RONGOTI CHARIALI,
P.O.- 1 NO. RONGATI CHARIALI,
P.S.- BIHPURIA,
DISTRICT- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE CHIEF SECRETARY CUM CHAIRMAN, STATE LEVEL
SELECTION COMMITTEE, GOVT. OF ASSAM, DISPUR, GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPT.

DISPUR
GUWAHATI
781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

4:THE DEPUTY COMMISSIONER
LAKHIMPUR CUM THE CHAIRMAN
DISTRICT LEVEL SELECTION COMMITTEE LAKHIMPUR ASSAM

PIN CODE- 787001.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

LAKHIMPUR
ASSAM
PIN CODE- 787001.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER

NARAYANPUR
LAKHIMPUR
ASSAM

PIN CODE- 784164.

7:THE DEPUTY INSPECTOR OF SCHOOLS
LAKHIMPUR

NORTH LAKHIMPUR

Advocate for the Petitioner : MR P R SARMA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

23.05.2023

Shri PR Sarma, learned counsel for the petitioner. Also heard Shri SR Baruah, learned State Counsel for the respondent nos. 1 & 4 as well as Shri P. Bora, learned Standing Counsel, Elementary Education Department for the respondent nos. 2, 3 and 5 to 7.

2. Considering the nature of the grievance and as agreed to by the parties, this writ petition is taken up for disposal at the motion stage itself. It is however to be noted that this case is at the stage of motion since November, 2022.

3. The matter pertains to a consideration for appointment on compassionate ground.

4. The petitioner has projected that her husband, late Dharmeswar Borah, who

was working in the Office of the District Elementary Education Officer, Lakhimpur as an Assistant Teacher had died in harness on 26.09.2015. It is also submitted that at the time of his death, he was working as the Headmaster In-charge of the No. 2 Dhemagarh LP School.

5. The petitioner accordingly had submitted an application on 01.02.2016 for consideration of her case for appointment on compassionate ground which was accordingly forwarded by the Block Elementary Education Officer to the Deputy Inspector of Schools, Lakhimpur vide communication dated 24.02.2016. The petitioner could learn that her case was placed before the District Level Committee which however did not consider her case.

6. Shri Sarma, learned counsel for the petitioner submits that this Court had taken note of the instructions placed before the Court, as per which, the rejection was on the ground that the application had spent its force as per Government letter dated 20.12.2012. The learned counsel submits that the said rejection has apparently been done without any application of mind and there was no delay on the part of the petitioner to apply for such consideration and the application was lying without proper consideration before the authorities.

7. Shri Baruah, learned State Counsel fairly submits that as per the settled law, one time consideration is mandatory which does not appear to have been done in his case as the rejection is on a technical ground which perhaps has been done without any fault on the part of the petitioner.

8. The learned Standing Counsel of the Department has endorsed the stand of the learned State Counsel.

9. In view of the aforesaid facts and circumstances, the present writ petition is disposed of by remanding the matter for consideration of the case of the petitioner for appointment on compassionate ground to the District Level Committee, Lakhimpur. It is however made clear that the delay should not be a ground which would come into

the way of consideration and the consideration has to be done on merits of the applicant. Such consideration is directed to be done in the next meeting of the District Level Committee, Lakhimpur.

10. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant