

GAHC010220452023



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

Case No. : WA/377/2023

ANURADHA PATIR
D/O- LATE SIVA KUMAR PATIR, R/O- VILLAGE SILAPATHAR, P.O AND P.S-
SILAPATHAR, DIST- DHEMAJI, ASAM, PIN-787059

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME DEPARTMENT DISPUR, GHY-06.

2:THE DEPUTY INSPECTOR GENERAL OF POLICE (A)
ASSAM
ULUBARI
GUWAHATI-07

3:THE SUPERINTENDENT OF POLICE
SIVASAGAR
ASSAM
PIN-785640

4:THE DEPUTY COMMISSIONER
DHEMAJI
PIN-787057

5:THE DEPUTY COMMISSIONER
SIVASAGAR
PIN-78564

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 03-10-2023

(Kardak Ete, J)

Heard Ms. S.B. Choudhury, learned counsel for the appellant. Also heard Ms. M.D. Bora, learned Government Advocate appearing for the State respondents.

2. This intra-Court appeal has been preferred by the appellant against the order dated 11.09.2023 passed by the learned Single Judge in WP(C) No. 4443/2023 whereby the writ petition of the appellant praying for a direction for appointment on compassionate ground has been dismissed.

3. The case of the petitioner is that she had submitted an application for compassionate appointment on 28.05.2000 as her father Lt. Siva Kr. Patir had died- in- harness on 25.02.2000, while working as Sub-Inspector of Police in the district of Sivasagar, Assam. The Superintendent of Police (A) has forwarded the application of the petitioner vide letter dated 29.05.2000 to the Deputy Inspector General of Police (A) Assam.

4. On 31.03.2004, the petitioner received a communication to report at SPs office SBR on 02.04.2004 for filling up the form for compassionate appointment for onward submission to DIG(NPC), Assam Guwahati. Pursuant thereto the appellant/writ petitioner has filled up the form in the office of the respondent authorities at Dhemaji. Thereafter, various official correspondences amongst the respondents authorities were made for consideration of the appellant's/writ petitioner's case.

5. It is the contention of the appellant/writ petitioner that on 09.03.2007, the

Deputy Commissioner, Dharmaji district again forwarded the application of the appellant/writ petitioner to the Deputy Commissioner, Sivasagar, for consideration of the case of the petitioner for the appointment on compassionate ground as her late father died while he was posted at Sivasagar. As and when the appellant approached the concerned authorities, she was told that she would be informed about the outcome in due course. In the process, it took very long time while she was waiting with hope and expectation. Even after, patiently waiting for so many years on being assured by the concerned authorities, when her case for appointment on compassionate ground did not yield any result, she filed the writ petition being WP(C) No. 4443/2023 for a direction to the respondent authorities to place the case of the petitioner before DLC considering the financial status of the family and also for declaring the act of the respondent authorities as illegal and unconstitutional. However, the writ petition has been dismissed by learned Single Judge on the ground that entire objective of the scheme is not to give appointment after a considerable length of time which is 23 years in the present case.

6. Ms. S.B. Choudhury, learned counsel for the petitioner submits that the learned Single Judge has failed to consider the fact that the delay has been caused due to fault on the part of the respondent authorities in keeping the case of the petitioner/appellant pending without any logical conclusion. In fact, her case was never placed before the appropriate authority as required under the Policy of the State. The appellant had been approaching the offices of the concerned authorities on several occasions and then she was told by the authorities that she would be duly informed about her appointment in due course of time for which, she had to wait for considerable period of time.

7. The learned counsel for the appellant submits that due to sudden an

untimely death of the sole earning member of the family, the sons and daughters of the deceased could not pursue their higher studies due to acute financial hardships and as a result, they would never get any employment on merit. The family members are somehow managing to survive after death of her father which has caused huge financial hardships to them.

8. It is submitted by the learned counsel for the appellant that the yardstick of compassionate appointment is financial hardship which cannot come to an end in the course of time unless and until one of the family members gets appointment on compassionate ground. Therefore, the learned Single Judge has committed manifest error by deciding the issue on the ground of delay in approaching the Court, which according to learned counsel for the appellant/writ petitioner is too harsh and unfair. Therefore, prays for setting aside the order dated 11.09.2023.

9. Ms M.D. Bora, learned Government Advocate appearing on behalf of the State respondents submits that the objective of an appointment on compassionate ground is to overcome the sudden crisis which is faced by the family members of the deceased, who has lost the sole bread earner. The late father of the appellant had died on 25.02.2000 and the appellant has approach this Court after 23 years. Therefore, the learned Single Judge has rightly refused to interfere and dismissed the writ petition.

10. We have considered the submissions advanced by the learned counsel for the parties and the materials available on record.

11. We noticed that the father of the appellant Lt. Siva Kr. Patir died-in-harness on 25.02.2000 while working as Sub-Inspector of Police in the district of Sivasagar. It also reflects that the appellant had submitted her application for

compassionate appointment on 28.05.2000 which was forwarded by the Superintendent of Police (A) Assam to the Deputy Inspector General of Police (A) Assam, Guwahati. It also reveals that vide communication dated 31.03.2004, the appellant was directed to report at SPs Office for filling up the requisite form for compassionate appointment for onward submission to DIG (NCP) Assam Guwahati. However, except for the bald statement by the appellant in the Writ Petition, there is nothing to show that she had filled up the form as required under the appropriate policy. We have also noticed that vide letter dated 09.03.2007 the Deputy Commissioner, Dhemaji has forwarded the application of appointment to the Deputy Commissioner, Sivasagar District, Sivasagar. Even thereafter, nothing is discernable from records, as to the fate of her application except the statement of the appellant that as and when the appellant approach the concerned authorities, she was told that she would be duly intimated in due course regarding her compassionate appointment for which she had to wait for such a long time with hope and expectation for her appointment.

12. The appellant/writ petitioner was obligated to approach the Court within a reasonable period of time when the respondent authorities failed to consider her case for appointment on compassionate ground. The appellant has approached the High Court for the first time after 16 years from the date when her application had been forwarded again on 09.03.2007 by the Deputy Commissioner, Dhemaji. As noted above, except the bald statement that the appellant was told that she would be duly intimated, there is nothing to show that the appellant was vigilant enough in pursuing her case for appointment on compassionate ground as her late father died- in- harness on 25.02.2000. The appellant has approached the Court by filing writ petition (supra) only in 2023

which is highly belated.

13. This Court in the case of *Dhanjit Das Vs. State of Assam and Ors, in Writ Appeal No. 120/2023* held that the family of the employee having survived for 14 (fourteen) years without difficulty, the highly belated claim for compassionate appointment made by the writ appellant could not have been entertained. Furthermore, the appellant therein had miserably failed to explain the delay of almost 8 (eight) years in filing the writ petition pursuant to alleged non consideration of her application dated 13.09.2013.

14. In the present case also, the appellant has approached the Court after 23 (twenty three) years from the death of her father and 16 (sixteen years) after the forwarding of her application alleging non consideration of her case. The appellant has failed to explain the delay.

15. Law is well settled by catena of judgments rendered by the Hon'ble Supreme Court that compassionate appointment is a means of providing relief from immediate financial distress to the family of Government employee, who being the sole bread earner, dies-in-harness. This is a means to prevent the dependents of the employee from penury and to provide them immediate relief to tide over the sudden crisis that has befallen on the family due to demise of sole bread earner in the family.

16. We would refer to the case of *Local Administration Department and Anr Vs. M. Selvanayagam Alias Kukaraverlu reported in (2011)13 SC 42* wherein the Honble Supreme Court has observed which is reproduced herein under :

“Ideally, the appointment on compassionate basis should be made without any loss of time but having regard to the delays in the administrative process and several other relevant factors such as

the number of already pending claims under the scheme and availability of vacancies, etc. normally the appointment may come after several months or even after two to three years. It is not our intent, nor it is possible to lay down a rigid time-limit within which appointment on compassionate grounds must be made but what needs to be emphasized is that such an appointment must have some bearing on the object of the scheme”.

17. In the case of *Director of Treasuries in Karnataka and Anr. Vs. V. Somyashree* reported in (2021) 12 SCC 20 the Hon'ble Supreme Court after considering the law laid down in *N.C. Santhosh*, on grant of compassionate appointment has summarized as follows:

10.1. That the compassionate appointment is an exception to the general rule.

10.2. That no aspirant has a right to compassionate appointment.

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Article 14 and 16 of the Constitution of India.

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and /or satisfaction of the eligibility criteria as per the policy.

10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.

18. In view of the discussion made above and the settled position of law, we find no infirmity in the impugned order dated 11.09.2023 passed by the learned Single Judge in Writ petition No. 4443/2003.

19. In the result, writ appeal fails. Accordingly, this writ appeal stands dismissed.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant