

GAHC010221062023



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

Case No. : WP(C)/5856/2023

JABIN SULTANA
D/O- LATE MOMTAZUL ISLAM,
R/O- SANTAK NAGAON, P.O. SANTAK,
P.S.- SIMOLUGURI, DISTRICT- SIVASAGAR,
PIN CODE- 785687, ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
DEPARTMENT OF ELEMENTARY EDUCATION,
DISPUR, GUWAHATI- 781006, ASSAM.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION
DISPUR
GUWAHATI- 781006
ASSAM.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
MAIN ROAD
781019

ASSAM.

4:THE DEUPTY COMMISSIONER OF SIVASAGAR CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE
SIVASAGAR
DISTRICT- SIVASAGAR

ASSAM.

5:BLOCK ELEMENTARY EDUCATION OFFICER
DISTRICT- SIVASAGAR
ASSAM.

6:DISTRICT ELEMENTARY EDUCATION OFFICER
SIVASAGAR
ASSAM.

7:THE CHAIRMAN
STATE LEVEL COMMITTEE
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM

DISPUR
GUWAHATI- 781006
ASSAM.

8:HEADMASTER
TENGAPUKHURI M.V. SCHOOL
SIVASAGAR
ASSAM

Advocate for the Petitioner : MR P R SARMA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 06.10.2023

Heard Mr. P.R. Sarma, learned counsel for the petitioner and Mr. G. Pegu, learned counsel for the respondents No. 1, 2, 3, 5 and 6, being the authorities in the Elementary Education Department of the Government of Assam. Also heard Ms. D.D. Barman, learned Addl. Senior Government Advocate for the respondents No. 4 and 7, being the District Commissioner, Sivasagar and the Chief Secretary to the Government of Assam, respectively. Considering the

nature of the order proposed to be passed, the respondent No. 8, being the Headmaster of Tengapukhuri M.V. School is not required to be heard.

2. The father of the petitioner Momtazul Islam who was an employee of Tengapukhuri M.V. School in the Sivasagar district, died in harness on 25.12.2004 and on his death, the petitioner submitted an application for compassionate appointment on 22.09.2005, the photocopy of the vernacular version of which is available as Annexure 5 page 31 to the writ petition. The vernacular version also contains the endorsement of the Headmaster of Tengapukhuri M.V. School dated 22.10.2005 and had forwarded it to the District Elementary Education Officer, Sivasagar. But in the statement of the candidates prepared by the authorities available at page 33 of the writ petition, the date of application of the petitioner had been shown to be 05.01.2006 instead of 22.09.2005.

3. The petitioner has approached this Court that in view of the aforesaid incorrect entry of the facts regarding the date of application of the petitioner, the respondent authorities have not given a due consideration to the same, possibly on the premises that the application was filed beyond one year from the date of death of the employee.

4. Ms. D.D. Barman, learned Addl. Senior Government Advocate for the respondents No. 4 and 7 has raised an issue that there is a possibility that the application of the petitioner may have been placed before the DLC. But a fact would remain that the said consideration also if made, must have been resulted in a negative consideration against the petitioner because of the incorrectness in the date of entry of the application of the petitioner.

5. In view of the above, we direct the District Elementary Education Officer, Sivasagar to again place the application of the petitioner dated 22.09.2005

before the next available DLC of Sivasagar district for its consideration and also direct the respondent authorities to correct the date of application made by the petitioner.

6. If the claim of the petitioner was given an earlier consideration by placing the application dated 22.09.2005, the respondents to inform the petitioner about the outcome of the same and in such event, there would be no further requirement to place it again before the DLC.

Writ petition stands disposed of as indicate above.

JUDGE

Comparing Assistant