

GAHC010227352023



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

Case No. : WP(C)/6049/2023

DIPJYOTI KALITA
S/O- LATE BINOD CH KALITA,
R/O- VILL. BARUA BARI,
P.O- KALITAKUCHI,
P.S- HAJO,
DIST- KAMRUP,
PIN-781102, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE DIRECTOR GENERAL OF POLICE,
ASSAM POLICE HEAD QUARTER, ULUBARI, GUWAHATI- 781007.

2:THE COMMISSIONER AND SECRETARY

TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI- 781006.

4:THE SECRETARY
TO THE CHIEF MINISTER OF ASSAM
DISPUR
GUWAHATI- 781006.

5:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (A)

ASSAM POLICE HEAD QUARTER
ULUBARI
GUWAHATI- 781007.

6:SUPERINTENDENT OF POLICE (C)
APRO DEPTT. ASSAM

7:THE DISTRICT COMMISSIONER
KAMRUP (M)
GUWAHATI-3

Advocate for the Petitioner : MR. B RAMCHIARY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

13.10.2023

Heard Ms. T Ramchiary, learned counsel for the petitioner. Also heard Shri D Bora, learned State counsel, Assam as well as Shri B Gogoi, learned Standing Counsel, Finance Department, Assam.

The claim in this petition is with regard to appointment on compassionate ground.

The case of the petitioner is that his father, Binod Ch. Kalita, who was working as Assistant Sub-Inspector, APRO Department, had died-in-harness on 29.05.2009 leaving behind his family and the petitioner is the youngest of the three siblings. The mother of the petitioner i.e., the widow of the deceased had applied for appointment on compassionate ground and before the same could be considered, she sustained from serious ailments and had passed away. The petitioner contends that her mother, however, had submitted an application on

22.08.2012 to consider the petitioner for compassionate appointment on attaining the majority instead of her. The mother of the petitioner passed away on 16.09.2012 and it is the case of the petitioner that vide letter dated 01.11.2012, the petitioner was directed to submit certain documents. The petitioner claims to have made an application immediately thereafter and had made a further application dated 22.08.2023 which has not been considered and accordingly, the instant writ petition has been filed.

Per contra, both Shri Bora, learned State Counsel as well as Shri Gogoi, learned Standing Counsel has submitted that the death of the petitioner's father being in the year 2009, the very objective of offering appointment on compassionate ground would not be fulfilled by the direction which has been prayed for. It is also pointed out that even assuming that the petitioner had applied immediately after the intimation letter dated 01.11.2012, the inordinate delay would be a factor to disentitle the petitioner from any equitable relief.

After hearing the parties, this Court has noticed that the government servant i.e., the father petitioner had passed away in the year 2009 and accordingly, the mother of the petitioner had applied for appointment on compassionate ground. The case projected is that since the mother was seriously ill, she had made an application to consider the petitioner after attaining the majority.

It is seen that the petitioner has two other elder siblings who did not apply for such appointment.

The objective of offering appointment on compassionate ground is to overcome the immediate crisis faced by the family of the sole breadwinner who had passed away and was a government servant. The said mode of recruitment

is a deviation from the normal recruitment process only to give immediate succour.

The law is also well settled that such claim cannot be kept pending till an incumbent attains majority. This Court has also noticed that even assuming that the petitioner had applied in terms of the intimation letter dated 01.11.2012 which was, apparently not considered, it is not understood why the petitioner had waited for a period of more than a decade to approach this Court.

This Court in exercising powers under Article 226 is a Court of Equity where the conduct of the party approaching the Court is of paramount importance and in the instant case, the petitioner is found to be lacking due diligence apart from non-fulfilling the minimum requirement of an appointment to be made on compassionate ground.

Under those facts situation, this Court does not find any merit in this writ petition and accordingly, the same is dismissed.

JUDGE

Comparing Assistant