

GAHC010229862022



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

Case No. : WP(C)/7243/2022

SMT. MIRA DEVI
W/O- LATE BIREN SARMA,
R/O- BELTOLA TINIALI,
NEAR PUBARUN CLUB,
HOUSE NO. 1, BASUDEV PATH,
P.S.- DISPUR, GUWAHATI- 29,
DIST.- KAMRUP(M), ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
DEPARTMENT OF HIGHER EDUCATION,
DISPUR, GUWAHATI- 781006.

2:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
GUWAHATI
GUWAHATI- 781036.

3:THE PRESIDENT OF GOVERNING BODY
DISPUR COLLEGE
DISPUR
GUWAHATI

TO BE REPRESENTED BY THE PRESIDENT

GUWAHATI- 781006.

4:THE PRINCIPAL
DISPUR COLLEGE

DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : MR. M DEKA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

01-02-2023

Heard Mr. M. Deka, learned counsel for the petitioner and Mr. A.R. Tahbildar, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1 & 2. Also heard Mr. G. Bokolial, learned Government Advocate, Assam for the respondent No. 3.

Matter pertains to compassionate appointment of the petitioner under the Die-in-Harness Scheme of the State to the post of Lower Divisional Assistant (LDA) in Dispur College, Dispur, District-Kamrup (Metro), a provincialised college of the State as her husband, Biren Sarma who was a LDA of said College died-in-harness on 18.07.2014.

Petitioner submitted that her husband Biren Sarma was the only bread earner of her family having two school going minor children. As such, being a graduate, she filed applications on 15.09.2014 & 24.12.2014 before the Principal of said college for her appointment on compassionate ground on the death of her husband and the said authority forwarded her those two applications to the Director of Higher Education, Assam. Accordingly, the DHE, Assam forwarded the same to the District Level Committee for compassionate appointment, District-Kamrup (Metro).

Since her applications for compassionate appointment was not considered by the authorities concerned, she approached this Court by preferring a writ petition being WP(C) No. 4533/2017.

By order dated 20.12.2017, the Court disposed of said WP(C) No. 4533/2017 preferred by the petitioner directing the respondents therein to process her claim in accordance with law and ensure that family pension that is due and payable to her under the Rules, should be paid to her within a period of 3 (three) months from the date of receipt of certified copy of the said order.

It is stated by the petitioner that though she received family pension but her case for

compassionate appointment under the die-in-harness scheme on the death of her husband, has not yet been considered by the authorities concerned.

The petitioner brought to the notice of the Court that though the case of the petitioner for compassionate appointment on the death of her husband was placed before the DLC for compassionate appointment, District-Kamru(Metro) in its meeting held on 01.02.2022 but the minutes of the meeting of the said Committee dated 01.02.2022 at serial No. 10 clearly reflects that though there was an order of the Court dated 20.12.2017 passed in WP(C) No. 4533/2017 in her favour but the said DLC could not recommend her name owing to absence of the departmental representative and due to non receipt of any information regarding vacancy details from the concerned department (Annexure-4 to this petition).

It is stated by the petitioner that the Principal-cum-Secretary of said Dipsur College, District-Kamrup (Metro) on 24.06.2022 issued an advertisement for filling up of three numbers of posts of Junior Assistant, earlier known as Lower Divisional Assistant, of which one was reserved for Schedule Caste, another was for Economically Weaker Section (EWS) under unreserved category and third one was for unreserved category and also advertised for one post of Library Assistant under OBC/MOBC category.

Petitioner submitted that if the post of Junior Assistant in Dispur College is filled up pursuant to the advertisement dated 24.06.2022, noted above, no post of Grade-III/Junior Assistant shall be available in the said College for consideration of her case for compassionate appointment.

Hence, the petitioner has filed this writ petition on 11.11.2022 praying amongst others for direction to the respondent authorities not to hold interview for filling up of the post of Junior Assistant in said Dispur College, District-Kamrup (Metro) and to appoint her on compassionate ground under the Die-in-Harness Scheme of the State for sudden death of her husband.

By order dated 16.11.2022, the Court directed the Director of Higher Education Assam to place the relevant instructions in the matter. However, the respondent authorities in the Higher Education Department on 30.11.2022 took time and even today, they prayed for some more time to place the relevant instructions.

After considering the entire aspect of the matter and hearing the learned counsels for the parties as well as considering the order dated 20.12.2017 passed earlier by the Court in WP(C) No. 4533/2017 that was preferred by the petitioner and since her case had already been forwarded to the DLC for compassionate appointment, District-Kamrup(Metro) and though her case was placed in its

meeting held on 01.02.2022 but the said DLC could not consider it due to non-availability of vacancy details that requires to be furnished by the Higher Education Department of the State and due to the absence of the representative of the Director of Higher Education Assam, this writ petition is disposed of directing the DLC for compassionate appointment, District-Kamrup(Metro) represented by its Chairman cum Deputy Commissioner, District-Kamrup (Metro) to consider the case of the petitioner afresh by placing her case in the next DLC Meeting of Kamrup (Metro) in terms of the order dated 20.12.2017 passed in WP(C) No. 4533/2017 (Mira Devi Vs. State of Assam and 4 others).

Further, the Director of Higher Education, Assam is directed to place the relevant vacancy details pertaining to the post of Grade-III/Junior Assistant of provincialised Colleges of the State including the Dispur College, Dispur, Kamrup (Metro) before the said DLC forthwith.

Petitioner shall submit a certified copy of this order before the Director of Higher Education, Assam being the Member Secretary of such compassionate appointment obtaining necessary acknowledgment from the said authority in that regard.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant