

GAHC010231562022



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

Case No. : WP(C)/70/2023

JAYANTA BOROO
S/O- LATE KANAK CHANDRA BOROO (WHO DIED IN HARNESS), R/O-
BORPOTHAR, SINGIMARI, P.O. AND P.S. BORPATHAR, PIN- 785602, DIST.
GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM
CHAIRMAN OF THE STATE LEVEL COMMITTEE FOR APPOINTMENT ON
COMPASSIONATE GROUND, DISPUR, GUWAHATI-781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM
PUBLIC WORKS ROADS DEPARTMENT (PWRD)
DISPUR
GUWAHATI-781006.

3:THE CHIEF ENGINEER

PUBLIC WORKS ROADS DEPARTMENT (PWRD)
CHANDMARI
GUWAHATI-781003.

4:THE DEPUTY COMMISSIONER
JORHAT CUM CHAIRMAN OF DISTRICT LEVEL COMMITTEE PERTAINING
TO COMPASSIONATE APPOINTMENT
JORHAT
PIN- 785001.

5:THE EXECUTIVE ENGINEER
PWD
JORHAT RURAL ROADS DIVISION

JORHAT
PIN- 785001

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 09-01-2023

Heard Mr. N.K. Kalita, learned counsel for the petitioner and Mr. H. Sarma, learned Addl. Senior Government Advocate for the respondents No. 1 and 4, respectively being the Chief Secretary to the Government of Assam and the Deputy Commissioner, Jorhat. Also heard Mr. R. Dhar, learned Addl. Senior Government Advocate for the respondents No. 2, 3 and 5, being the authorities under the PWRD of the Government of Assam.

2. The father of the petitioner Kanak Ch. Boroo, who was a UDA in the office of the Executive Engineer, PWD, Jorhat Rural Roads Division, died in harness on 23.02.2013 and on his death, the petitioner made an application for compassionate appointment on 29.06.2013. The said application was considered by the DLC of Jorhat district in its meeting of 11.09.2013 and in respect of the petitioner, it was recorded that his date of birth is 01.02.1984 and his qualification is HSLC passed. It was also recorded that the petitioner had made an application for Grade-III post and in the remarks column, the petitioner was recommended against a vacancy of the year 2012-13 without specifying as to whether the recommendation was for a Grade-III post or it was in respect of a Grade-IV post. When the recommendation of the DLC was placed before the SLC in its meeting of 19.06.2018, it stood rejected by providing that the

recommendation was not within the 5% quota and the petitioner was under qualified as he was not a graduate. Being aggrieved, the petitioner instituted WP(C) No. 6220/2018 which was given a consideration by the order dated 13.03.2019 providing that the petitioner may be considered against vacancies in any other department as per Clause 15 of the O.M. dated 01.06.2015. When the matter was reconsidered by the SLC in its meeting of 23.12.2019, it again stood rejected that the petitioner could not be accommodated within 5% quota in any of the division nor he could be recommended on the basis of an inter-se financial comparison.

3. Although the two reasons by the SLC appear to be unacceptable inasmuch as, the DLC of Jorhat district having identified a vacancy and recommended the petitioner, it cannot be without any reasonable material for the SLC arriving at its conclusion that it exceeded 5% quota. Secondly, in the reasoning of the SLC in its meeting of 23.12.2019 it was observed that the petitioner was rejected on an inter-se financial comparison whereas the DLC in fact had recommended the petitioner although no material is discernible that there was any inter-se financial comparison made. Although the two reasoning of the SLC in its meetings dated 19.06.2018 and 23.12.2019 are unacceptable, but at the same time, when we examine the recommendation made by the DLC, it appears that firstly the petitioner has a qualification of HSLC passed meaning thereby, that he is not qualified for any Grade-III post and secondly, the recommendation of the DLC in its meeting of 11.09.2013 does not indicate as to whether the petitioner was recommended for a Grade-III post or for a Grade-IV post.

4. In view of the ambiguity of the recommendation of the DLC, we remand the matter back to the DLC of Jorhat district for a fresh consideration. The application of the petitioner be placed before the next available meeting of the

DLC of Jorhat district to consider the claim of the petitioner, as per law.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant