

GAHC010232402023



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

Case No. : WP(C)/6093/2023

SARASWATI PAUL
D/O- KANCHANMAL PAUL,
VILLAGE RONGPUR,
P.O- KATLICHERRA,
P.S- KATLICHERRA, DIST- HAILKANDI, ASSAM, PIN-788163

VERSUS

THE STATE OF ASSAM AND 3 ORS.,
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE DEPUTY COMMISSIONER
AND CHAIRMAN DISTRICT LEVEL COMMITTEE (DLC)
HAILAKANDI

P.O AND DIST- HAILAKANDI
ASSAM
PIN-788151

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)

P.O AND DIST- HAILAKANDI
ASSAM
PIN-78815

Advocate for the Petitioner : MR. A H ALAMGIR

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 22.11.2023

Heard Ms. S. Kanungoe, learned counsel for the petitioner and Mr. G. Pegu, learned counsel for the respondents No. 1, 2 and 4, being the authorities in the Elementary Education Department. Also heard Mr. P. Saikia, learned counsel for the respondent No. 3, being the Deputy Commissioner, Hailakandi.

2. The father of the petitioner Chakrapani Paul who was Head Teacher in the 97 No. Dinanathpur L.P. School, died in harness on 10.08.2002 and on his death, the petitioner submitted an application for compassionate appointment on 01.01.2017. The said application was placed before the DLC of Hailakandi district in its meeting of 05.10.2021, but the same was rejected on the ground that at the time of submission of the application the age of the petitioner was 17 years 11 months 6 days whereas the deceased employee died on 10.08.2002. In other words, two reasons are discernible as to why the application of the petitioner was rejected, the first being that on the date of application she was aged 17 years 11 months 6 days i.e. she had not attained majority and secondly, there is a wide gap between the date of the death of the deceased employee and the date of the application.

3. Regarding the first reason, we take note of the pronouncement of the Hon'ble Supreme Court in its judgment rendered in *N.C. Santhosh Vs. State of Karnataka and Ors.* reported in (2020) 7 SCC 617, wherein it is provided that the

norms prevailing on the date of consideration of the application shall prevail and admittedly, on the date of consideration the petitioner had attained majority and therefore it could not have been rejected on the ground that on the date when the application was made, she had not attained majority.

4. As regards the second reason of rejection that there is a wide gap between the date of death of the deceased employee and the date of the application, we take note that on the date when the employee died, admittedly the petitioner was a minor and in such circumstance, it would be governed by the proposition laid down by the Hon'ble Supreme Court in the case of *Syed Khadim Hussain Vs. State of Bihar and Ors.*, reported in (2006) 9 SCC 195.

5. In view of the above, the matter is remanded back to the DLC of Hailakandi district to be placed in its next available meeting for a fresh consideration by taking note of the propositions laid down by the Hon'ble Supreme Court in *N.C. Santhosh (supra)* and *Syed Khadim Hussain (supra)* and pass a reasoned order thereon as per its entitlement.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant