

GAHC010232912017



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

Case No. : WP(C)/960/2017

SHARIF UDDIN
S/O- LT. NOOR UDDIN, VILL.- NILBAGAN, P.S.- HOJAI, DIST.- NAGAON,
ASSAM, PIN- 782001.

VERSUS

THE STATE OF ASSAM and 4 ORS.
REP. BY ITS COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION SECONDARY DEPTT., DISPUR, GHY- 6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY- 19.

3:THE DY. COMMISSIONER CUM CHAIRMAN
DIST. LEVEL COMMITTEE
NAGAON
P.O. and DIST.- NAGAON
ASSAM
PIN- 782001.

4:THE DY. COMMISSIONER
HOJAI
P.O. and DIST.- HOJAI
ASSAM
PIN- 782435.

5:THE DIST. ELEMENTARY EDUCATION OFFICER
HOJAI
P.O. and DIST.- HOJAI
ASSAM

PIN- 782435

Advocate for the Petitioner : MRS.P B HAZARIKA

Advocate for the Respondent :

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

01-03-2023

Heard Mr. A. J. Atia, learned counsel for the petitioner and Ms. D. Mushahary, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 & 2. Also heard Mr. G. Pegu, learned Government Advocate, Assam for the respondent No. 3.

2. Father of the petitioner, namely, Noor Uddin was serving as an Assistant Teacher in Ambari M.E. School under the Jugijan Education Block in the district of Nagaon who died-in-harness on 24.09.2015.

3. On 30.12.2015, the petitioner submitted an application before the District Elementary Education Officer (DEEO), Nagaon for consideration of his case regarding appointment to the post of Grade-IV on compassionate ground under the establishment of said authority.

4. Initially, the case of the petitioner was under the jurisdiction of the Deputy Commissioner, Nagaon. Since he was residing permanently under the jurisdiction of the Deputy Commissioner, Hojai, the petitioner preferred this writ petition praying for a direction to the Deputy Commissioner, Nagaon to forward his name to the Deputy Commissioner, Hojai and to place his name before the District Level Committee (DLC) for compassionate appointment, Hojai regarding consideration of his appointment to the post of Grade-IV on compassionate ground.

5. It is to be noted herein that the case of the petitioner was placed before the DLC for compassionate appointment, Nagaon on 26.09.2016 and the said DLC on the same date itself though considered the case of the petitioner for his compassionate appointment in Grade-IV post under the

die-in-harness scheme of the State but due to non-availability of such vacancy under the authority concerned, his case could not be recommended.

6. By order dated 20.02.2017, the Court directed the DEEO, Hojai to place the case of the petitioner for his appointment on compassionate ground before the Deputy Commissioner, Hojai for placement of the case before the DLC for compassionate appointment, Hojai.

7. Since the respondent authorities did not apprise the Court with regard to the compliance of the said order dated 20.02.2017, the Court by order dated 20.02.2023 directed the Deputy Commissioner, Nagaon as well as the DEEO, Hojai to place the status of compliance of the said order dated 20.02.2017 and fixed the matter today i.e., 01.03.2023.

8. During the deliberation of the matter, the Additional Deputy Commissioner (Personnel Branch), Nagaon by its communication under No. NRA.85/2017/51 dated 02.02.2023 placed before the Court through Mr. Pegu, learned Government Advocate, Assam stating that though on 25.01.2016, the State Government created a new district of Hojai bifurcating it from Nagaon district and it started functioning on 19.02.2016 but the office of the DEEO, Nagaon remained un-bifurcated. As such, there was no such office of the DEEO at Hojai though it was a new district and accordingly, the proposals under the jurisdiction of Hojai district are also submitted to the Deputy Commissioner, Nagaon for placing in the DLC Meeting Nagaon.

9. By the said communication dated 02.02.2023, the Additional Deputy Commissioner (Personnel Branch), Nagaon also stated that the State Government in the General Administration Department on 31.12.2022 merged back the administrative District of Hojai with the original undivided district of Nagaon and thereby, Hojai District ceased to exist and the erstwhile Civil Sub-Division of Hojai has been revived with immediate effect. Said Notification dated 31.12.2022, was also published in the Assam Gazette Extraordinary on 31.12.2022 itself.

10. Considering the above, the Court is of the view that no such direction as prayed by the petitioner, in exercise of the power conferred under Article 226 of the Constitution of India, can be issued to the authorities concerned to place the case of the petitioner for his appointment on compassionate ground on the death of his father before the DLC, Hojai which is not in existence. Accordingly, this writ petition being devoid of merit, stands rejected.

11. However, liberty is granted to the petitioner to approach the appropriate forum for redressal of his grievances regarding consideration of his case for appointment to the post of Grade-IV on

compassionate ground as his father died-in-harness, since the administrative District-Hojai is no longer in existence.

JUDGE

Comparing Assistant