

GAHC010234522022



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

Case No. : WP(C)/7345/2022

SABIKA YESMIN
D/O. LT. SHAJAHAN ALI, VILL. AMARAGURI, P.O. JALAKIABARI, P.S.
LAHORIGHAT, DIST. MORIGAON, ASSAM, PIN-782127.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SECONDARY
EDUCATION DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
P.O. KAHILIPARA
GUWAHATI-19

3:INSPECTOR OF SCHOOLS
MORIGAON DISTRICT CIRCLE
MORIGAON
DIST. MORIGAON
ASSAM
PIN-782105.

4:THE DISTRICT LEVEL COMMITTEE FOR SELECTION OF CANDIDATES
FOR APPOINTMENT ON COMPASSIONATE GROUND

REP. BY THE CHAIRMAN
THE DEPUTY COMMISSIONER
MORIGAON
ASSAM
PIN-782105.

5:THE STATE LEVEL COMMITTEE FOR SELECTION OF CANDIDATES FOR
APPOINTMENT ON COMPASSIONATE GROUND
REP. BY THE CHIEF SECRETARY AND THE CHAIRMAN OF SLC
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. U DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 19.12.2023

Heard Mr. U. Dutta, learned counsel for the petitioner and Mr. U. Sarma, learned counsel for the respondent Nos. 1, 2 and 3, being the respondents in the Secondary Education Department. Also heard Mr. B. Deuri, learned Junior Government Advocate for the respondent Nos. 4 and 5, being the Deputy Commissioner, Morigaon and the Chief Secretary to the Government of Assam, respectively.

2. The father of the petitioner, namely, Shajahan Ali while working as a Grade-IV employee in the office of the Inspector of Schools, Morigaon, died in harness on 31.03.2017 and on his death, the petitioner submitted an application for compassionate appointment on 30.05.2017. The application of the petitioner dated 30.05.2017 was placed before the Inspector of Schools, Morigaon. The said application not being processed, the petitioner made enquiries in the office of the respondents and was given to understand that the case of the petitioner would not be considered for compassionate appointment inasmuch as, Clause 5.11 of the notification dated 14.09.2017 bars her case from being considered

for appointment on compassionate ground. The petitioner has contended that the respondent authorities in view of the provisions of the notification dated 14.09.2017, more particularly Clause 5.11 thereof, has not placed the case of the petitioner before the jurisdictional DLC for consideration on merits.

3. Clause 5.11 of the notification dated 14.09.2017 reads as follows:

“5.11. The scheme is applicable to those employees who died/die in harness on or after 01.04.2017. However, the relevant OMs related to the Compassionate appointments will be applicable to those who died on or before 31.03.2017.”

4. The provisions of the said clause clearly mandates that the said scheme that was brought into operation with effect from 01.04.2017 and was made applicable only to cases of those employees who died or would die in harness on or after 01.04.2017. The said scheme is prospective in nature coming into operation w.e.f. 01.04.2017. The provisions of Clause 5.11 makes it further clear that persons who had died on or before 31.03.2017 shall be governed by the schemes in place prior to coming into effect the scheme brought into operation vide the notification dated 14.09.2017.

5. The father of the petitioner admittedly having died on 31.03.2017 would not come under the purview of the scheme brought into operation vide the notification dated 14.09.2017 and would be governed by the schemes that were holding the field prior to 01.04.2017.

6. In view of the above conclusions, the Inspector of Schools, Morigaon is directed to place the application of the petitioner for appointment on compassionate grounds before the jurisdictional DLC for consideration on merits. The jurisdictional DLC shall consider the case of the petitioner on merits by applying the criteria as mandated to be applied for the purpose of such consideration.

7. On conclusions being arrived at in the matter by the jurisdictional DLC, the decision thereof would be communicated by the Inspector of Schools to the petitioner. Further processing in the matter of the petitioner for appointment on compassionate ground shall be in terms of the recommendations that would be made by the jurisdictional DLC in the matter upon consideration of the case of the petitioner on merits.
8. The exercise as directed above shall be completed within a period of 2(two) months from the date of receipt of certified copy of this order. The petitioner shall submit a certified copy of this order with a representation before Inspector of Schools, Morigaon, who shall thereafter place the matter before the jurisdictional DLC for further consideration.
9. With the above directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant