

GAHC010235382022



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

Case No. : WP(C)/7917/2022

CHANDRALEKHA MORANG
D/O. LT. HITESH MORANG, VILL. BAMUNDOLONI, P.O. POHUMARA, P.S.
NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM, PIN-787031.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, STATE LEVEL
SELECTION COMMITTEE ON COMPASSIONATE GROUND, DISPUR,
GUWAHATI-781006.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPT.
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
ASSAM
PIN-781019.

4:THE DEPUTY COMMISSIONER CUM CHAIRMAN

DIST. LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND
LAKHIMPUR
ASSAM
PIN-787001.

5:THE DIST. ELEMENTARY EDUCATION OFFICE

LAKHIMPUR
NORTH LAKHIMPUR
PIN-787001

Advocate for the Petitioner : MR. B GOGOI

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 21.04.2023

Heard Ms. U. Hazarika, learned counsel for the petitioner. Also heard Mr. B. Koushik, learned standing counsel for the Elementary Education Department and Mr. G. Bokalia, learned Govt. Advocate appearing for the State.

2. The case of the petitioner is that her father, namely, Late Hitesh Morang had died in harness on 17.06.2003 while serving as Assistant Teacher at Bamundoloni M.E. School under the jurisdiction of District Elementary Education Officer, Lakhimpur (DEEO for short). It is projected that in the same year, the petitioner had applied for appointment on compassionate ground in the prescribed format. It is also projected that by a forwarding letter dated 18.04.2005, the application of the petitioner was forwarded to the competent authority for considering her appointment on compassionate ground and in the said list, the name of petitioner appeared at Sl. No.31. In the particulars forwarded by the DEEO, the name of the petitioner appeared at Sl. No.8. It is the case of the petitioner that till 10.04.2012, the application of the petitioner was not considered and thereafter, the Deputy Commissioner, Lakhimpur issued a letter dated 07.04.2012 to the DEEO, who had forwarded the list of pending

applications where the name of the petitioner appears at Sl. No. 70. The petitioner has not been informed about the status of her application for appointment on compassionate ground and accordingly, this writ petition has been filed under Article 226 of the Constitution of India.

3. The learned counsel for the petitioner has submitted that pursuant to order dated 10.02.2023, she has filed an affidavit to bring on record the statement regarding the post which was held by the father of the petitioner. It is also submitted that in terms of the OM dated 01.06.2015 in respect of appointment on compassionate ground, it was incumbent on part of the DLC to consider the candidature of the petitioner for appointment in any suitable Grade-III or Grade-IV post and in this regard, she relies on paragraph 15 of the said OM.

4. The learned standing counsel for the Elementary Education Department has produced a copy of instructions to project that the name of the petitioner was forwarded on 18.04.2005 by the DEEO and it is submitted that the OM dated 01.06.2015 would not be applicable for the petitioner as her father had died in the year 2003 and during that the period, the OM dated 09.09.1983 was applicable for the petitioner. It is also submitted that as per the decision of the case in the case of *Achyut Ranjan Das Vs. State of Assam & Ors., (2006) 4 GLT 674*, the applications which are not considered for two years are deemed to have spent its force. As per sub-paragraph (x) of paragraph 7 of the said decision, if the application of eligible candidate remained pending and cannot be considered due to want of vacancies for a period of two years from the date of making such applications, all such applications will require no further consideration and must be understood to spend their force.

5. Having considered the materials available on record, the Court finds

that the application of the petitioner for appointment on compassionate ground, which was submitted in the year 2003 had been duly forwarded by the DEEO by forwarding letter dated 18.04.2005, wherein the name of the petitioner appears at Sl. No. 31.

6. In light of the decision of the case of *Achyut Ranjan Das (supra)*, referred to above, the Court is of the considered opinion that the petitioner has approached this Court after 19 (nineteen) years for enforcement of her right to claim appointment on compassionate ground.

7. In view of the inordinate delay in approaching the Court and on the ground that there is no likelihood that the vacancy for the year 2003-04 would still be available now, the Court is of the considered opinion that the petitioner has not been able to make out a case for appointment on compassionate ground.

8. Accordingly, this writ petition fails and the same is dismissed.

JUDGE

Comparing Assistant