

GAHC010239082023



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

Case No. : WP(C)/6274/2023

NITUMONI BORUAH
D/O- LEKHAN BORUAH,
R/O-VILLAGE GHARMARA,
P.O- MACHKHUWA,
DIST- LAKHIMPUR, ASSAM, PIN-787053

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH- THE PRINCIPAL SECRETARY, TO THE GOVERNMENT OF
ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:DEPUTY COMMISSIONER
CUM CHAIRMAN

DISTRICT LEVEL COMMITTEE

DIST- LAKHIMPUR

PIN-787001

3:THE DIRECTOR

ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19.

4:THE DEPUTY DIRECTOR

ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GHY-19.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

LAKHIMPUR
PIN-78700

Advocate for the Petitioner : MR. N ANAND

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

08.11.2023

Heard Mr. N. Anand, learned counsel for the petitioner. Also heard Mr. P. Saikia, learned Government Advocate representing the respondent no. 2 and Ms. S. Chutia, learned Standing Counsel, Elementary Education Department representing the respondent nos. 1, 3 4 and 5.

2. In brief, the case of the petitioner is that the father of the petitioner had died in harness on 04.02.2006 while serving as an Assistant Teacher in the Gharmara M.E. School in the district of Lakhimpur. The petitioner had applied for appointment on compassionate ground before the Office of the Deputy Inspector of Schools, Dhakuakhana which was forwarded to the Director of Elementary Education, Assam vide letter dated 30.08.2006. However, the Deputy Director of Elementary Education, Assam vide letter dated 21.05.2007 had returned the proposal for appointment on compassionate ground to the District Elementary Education Officer, Lakhimpur with a request to the said authority to submit the proposal before the District Level Committee as per

Govt. Circular / Order.

3. The grievance of the petitioner is that the application of the petitioner was never considered by any of the District Level Committee meeting held from time to time. Therefore, the petitioner had again written an application dated 22.08.2012 to the District Elementary Education Officer, Lakhimpur for considering her case for appointment on compassionate ground.

4. As the application was never put up or considered by the District Level Committee, the petitioner had earlier approached this Court by filing a writ petition being WP(C)/5923/2023 which was withdrawn with liberty to approach again and accordingly, the present writ petition has been filed under Article 226 of the Constitution of India seeking a direction from the respondent authorities to place the case of the petitioner for consideration for appointment on compassionate ground in the next District Level Committee meeting.

5. The non-communication of the status of the application of the petitioner by the District Level Committee on Compassionate Appointment, District - Lakhimpur and / or by the District Elementary Education Officer, Lakhimpur and / or non forwarding of petitioner's application before the District Level Committee cannot be appreciated. But having noticed that the application for appointment on compassionate ground was made by the petitioner during the year 2006-07, the petitioner has belatedly approached this Court after almost 16 years from the date of applying. Hence, this Court is of the considered opinion that the inordinate delay in approaching this Court has defeated equity. Therefore, this Court is not inclined to entertain this belated challenge to non-consideration of her application for compassionate appointment. Resultantly, this writ petition stands dismissed at the motion stage without issuance of notice to the respondents.

6. The learned Standing Counsel, Elementary Education Department and the learned Government Advocate shall send the downloaded copy of this order to the Deputy Commissioner cum Chairperson, District Level Committee on Compassionate Appointment, Lakhimpur and District Elementary Education Officer, Lakhimpur to take note of the displeasure of the Court in not dealing with the application for appointment on compassionate ground by the petitioner in its right earnest, which is in violation of the principles laid down in the case of *Achyut Ranjan Das and Ors. Vs. State of Assam and Ors., reported in 2006 4 GLT 674.*

JUDGE

Comparing Assistant