

GAHC010245312022



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

Case No. : WP(C)/8372/2022

SHAMVU DAS
S/O LATE BABUL DAS @ BABUL CHANDRA DAS,
R/O DASPARA, ATALBASTI,
P.O.- SMC GHUNGUR,
P.S.- SILCHAR,
DIST.- CACHAR, ASSAM, PIN- 788014.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPTT. (ROADS), DISPUR, GUWAHATI- 781006.

2:THE CHIEF ENGINEER
PUBLIC WORKS DEPTT. (ROADS)
CHANDMARI
GUWAHATI- 781003
ASSAM.

3:THE UNDER SECRETARY TO THE GOVT. OF ASSAM
PWRD (ESSTT.- B)
BRANCH DISPUR
GUWAHATI- 781006.

4:THE ADDITIONAL CHIEF ENGINEER (PLANNING)
PUBLIC WORKS DEPTT. (ROADS)
ASSAM
CHANDMARI
GUWAHATI- 781003.

5:THE DEPUTY COMMISSIONER
CACHAR

SILCHAR
ASSAM
PIN- PIN- 788001.

6:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT. (R AND B)
MECHANICAL DIVISION
SILCHAR- I
DIST.- CACHAR
ASSAM
PIN- 788001

Advocate for the Petitioner : MR. B P SINHA

Advocate for the Respondent : GA, ASSAM

B E F O R E
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

18-01-2023

Heard Mr. B.P. Sinha, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned Standing Counsel, PWD for Respondents No.1, 2, 3, 4 and 6; and Ms. M.D. Bora, learned Government Advocate, Assam for Respondent No.5.

The father of the petitioner late Babul Das, while serving as Driver in the Office of the Executive Engineer, Public Works Department (R & B), Mechanical Division, Silchar-I, Cachar, died in harness on 20.03.2011. Thereafter, the petitioner made an application for appointment on compassionate ground before the Executive Engineer, PWD (R & B), Mechanical Division, Silchar-I, on 21.06.2011. The District Level Committee in its meeting held on 21.12.2011 recommended the case of the petitioner for a

Grade-IV post for appointment on compassionate ground. Thereafter, no step was taken by the concerned Department for placing the case of the petitioner before the State Level Committee. However, by a speaking order dated 30.07.2022, the Special Commissioner and Special Secretary to the Government of Assam, Public Works Department, Dispur, declared the appointment of the petitioner as time barred and considered to have spent its force. Accordingly, being aggrieved with the speaking order dated 30.07.2022, the petitioner is before this court by way of the present writ petition.

After the DLC recommended the case of the petitioner, no step was taken by the concerned respondent for placing the case of the petitioner before the State Level Committee and, instead, the Special Commissioner and Special Secretary to the Government of Assam, Public Works Department usurped the power of the State Level Committee and declared that the appointment of the petitioner is time barred and has spent its force. This is not permissible in law inasmuch as it is only the State Level Committee who can take a decision with regard to the appointment of the petitioner on compassionate ground.

Accordingly, the speaking order dated 30.07.2022 is set aside and quashed in so far as the petitioner is concerned. The Respondent No.1 is directed to place the case of the petitioner before the next immediate sitting of the State Level Committee. Thereafter, the State Level Committee shall take a decision with regard to the appointment of the petitioner on compassionate ground. While taking the decision, the State Level Committee shall take into consideration that the delay in placing the case of the petitioner before the State Level Committee is due to laches on the part of

the Department and not on the part of the petitioner.

With the aforesaid observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant