

GAHC010249902023



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

Case No. : WP(C)/6644/2023

GANESH BARMAN
SON OF LATE ARUN CH BARMAN,
RESIDENT OF VILLAGE- BARBHAGJARI,
P.O.- GOBRADAL, P.S.- TIHU,
DISTRICT- NALBARI, ASSAM,
PIN- 781370.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
FOREST DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE CHIEF SECREARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
HEAD OF FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI- 37.

4:THE FOREST RANGE OFFICER
NALBARI RANGE
NALBARI
PIN- 781335.

5:DIVISIONAL FOREST OFFICER
NORTH KAMRUP DIVISION
RANGIA

DISTRICT- KAMRUP
PIN- 781354

Advocate for the Petitioner : MR. J KALITA

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

18.11.2023

Heard Mr. J. Kalita, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned Standing Counsel, Forest Department.

This writ petition is filed by the petitioner who is aggrieved by the non-consideration of his representation for compassionate appointment. The petitioner's father Arun Ch. Barman was a regular employee of the Forest Department and was employed in the Divisional Forest Office, North Kamrup Division as a Forest Guard. The father of the petitioner died in harness on 26.02.2011 while in service leaving behind his wife and his 3 (three) children. Due to the sudden death of his father, who was the sole bread earner of their family, the petitioner and his family members have been suffering from a great hardship and severe financial crisis. The petitioner had cleared his Class-X (HSLC Examination) and had acquired the minimum qualification required for being selected as in Grade-IV post. The petitioner accordingly applied for consideration for compassionate appointment in any Grade-IV post by submitting his application on 03.04.2011. The said application was duly received and acknowledged

by the respondent no.5. The petitioner was assured that his prayer for compassionate appointment will be considered favourably. So the petitioner was allowed to work as a casual worker by the Forest Range Officer, Nalbari in his office. Whenever the petitioner visited the Office of the concerned respondent, he was assured that his application for compassionate appointment will be given due consideration. However, no such intimation came from the Office of the Respondents. It is submitted by the learned counsel for the petitioner that time and again several meetings of the District Level Committee (DLC) & State Level Committee (SLC) meetings were held by the concerned authorities but his case was never considered by the competent authorities and representations were filed before the authorities concerned in which the respondent authorities did not issue any intimation to the petitioner. All the required documents were placed before the authorities concerned.

The learned counsel for the petitioner has referred to a list of candidates who had also applied for compassionate appointments since the year 2015 onwards. These candidates had applied for compassionate appointment under the various offices under the Forest Department. Their cases not having been considered, they had approached this Court by filing individual writ petitions praying for appropriate orders and different Co-ordinate Bench of this Court upon considering those cases passed individual opinions in favour of the petitioners in each of the cases.

Learned counsel for the petitioner submits that the petitioner has approached this Court praying for similar orders so that his case for compassionate appointment

be considered and appropriate order be passed thereon. Under such circumstances, it has been submitted that that similar orders be passed for due consideration of his application for compassionate appointment.

Mr. R.R. Gogoi, learned Standing Counsel, Forest Department submits that he has no instructions in the matter till date.

Having heard the learned counsel for the parties and upon due perusal of the pleadings on record, this Court is of the considered view that the limited prayer in the writ petition is for an order directing the respondents to give due consideration to the prayers made in the representation filed by the petitioner seeking compassionate appointment.

Perusal of the pleadings reveals that no such consideration has been given to the representation filed by the petitioner. Under the scheme of compassionate appointment, the applications filed by the persons seeking compassionate appointment are required to be forwarded to the State Level Committee (SLC) and upon recommendations being made, the same are to be considered by the State Level Committee (SLC) where the Chairman is the Chief Secretary of the State. However, in the cases of Forest Department, the applications are directly to be placed before and considered by the SLC.

This is because of the fact that there are no district level posts available under the Forest Department. The appointing authority for Grade-III and Grade- IV post in the Forest Department is the Principal Chief Conservator of Forest (PCCF) and not a

district level official. In that view of the matter, the Government had issued a notification being the Personal (B) Department's U/O No.215/207 dated 25.06.2007 and Government direction issued vide FRE.105/2004/246 dated 11.07.2007 clarifying this position.

Under such circumstances, the basis for consideration of compassionate appointment under the Forest Department are required to be placed before and considered by the SLC only. In the facts of the present case, it is seen that there is an application submitted by the petitioner which is duly acknowledged and it is reflected from the SLC minutes that the petitioner's name was not placed or considered by the SLC. Under such circumstances, this Court is of the considered opinion that it would be appropriate to issue a direction to the respondents to examine the claim of the petitioner and place it before the SLC for appropriate consideration. Accordingly, the representation of the petitioner shall be placed before the SLC in its next meeting and in the event the same is placed below the SLC, the SLC will consider the same and pass appropriate order as per the relevant OM as well as the provisions of law. This entire exercise shall be completed within a period of 60 (sixty) days from the date of receipt of a certified copy of this order.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant