

GAHC010252692022



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

Case No. : WP(C)/7955/2022

DILOWARA PARVEEN LASKAR
W/O- LATE AINUL HOQUE CHOUDHURY ,
R/O- VILLAGE NARAINPUR PART-II,
P.O- NORTH NARAINPUR, DIST- HAILAKANDI, ASSAM, PIN-788801

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY COMMISSIONER AND SECRETARY, TO THE GOVT. OF ASSAM ,
DEPARTMENT OF ELEMENTARY EDUCATION, DISPUR ,GUWAHATI-
781006, DIST.- KAMRUP(M), ASSAM.

2:THE CHAIRMAN
STATE LEVEL COMMITTEE (SLC) FOR COMPASSIONATE APPOINTMENT
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06

3:THE CHAIRMAN
DISTRICT LEVEL COMMITTEE (DLC) FOR COMPASSIONATE
APPOINTMENT
REP. BY ITS CHAIRMAN
DEPUTY COMMISSIONER OF HAILAKANDI DISTRICT
ASSAM
PIN-78815

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

03.04.2023

Heard Mr. F Z Mazumdar, learned counsel for the petitioner and Mr. B Koushik, learned Standing counsel, Department of School Education, Assam for the respondent No. 1. Also heard Ms. D Das Barman, learned Government Advocate, Assam for the respondent Nos. 2 & 3.

Perused the records of WP(C) No. 4314/2010 (disposed of on 06.08.2010) as well as WP(C) No. 476/2022 (dismissed on withdrawal on 19.10.2022), both preferred by the petitioner.

Petitioner herein is aggrieved as her application for compassionate appointment under the Die-in-Harness Scheme has been rejected by the State Level Committee (SLC) for compassionate appointment in its meeting held on 02.02.2013, due to late submission of her application for such compassionate appointment.

Brief facts of the case is that the husband of the petitioner, namely, Ainul Hoque, an Assistant Teacher of Saman Ali Lower Primary School in the Hailakandi Education Block of District-Hailakandi died in harness on 20.07.2009 and that she applied for her compassionate appointment before the Deputy Inspector (D.I.) of Schools, Hailakandi on 20.10.2009.

As there was inordinate delay on the part of the respondent authorities in considering her case for compassionate appointment, she preferred a writ petition being WP(C) No. 4314/2010, praying for a direction to the respondents therein to appoint her as a Lower Primary School Teacher on compassionate ground.

The Court after considering the matter by its order dated 06.08.2010 disposed of said WP(C) No. 4314/2010, directing the respondent authorities therein, more particularly, the Deputy Inspector of Schools, Hailakandi to place the case of the petitioner for her compassionate appointment before the District Level Committee (DLC) for compassionate appointment, Hailakandi, constituted for the purpose vide Judgment and Order dated 03.08.2006 passed in WP(C) No. 3875/2005 (*Achyut Ranjan Das & Ors. -Vs.- State of*

Assam and Ors.) reported in 2006 (4) GLT 674 at the earliest.

Pursuant to the said direction, the District Level Committee (DLC) for compassionate appointment, Hailakandi in its meeting held on 30.11.2012 recommended the name of the petitioner for her compassionate appointment as an Assistant Teacher in Upper Primary School against the 95 Nos. of vacant posts of Assistant Teachers occurred during the year 2011 in the Upper Primary Schools in Hailakandi District.

As the said recommendation of the DLC for compassionate appointment, Hailakandi dated 30.11.2012 was not considered and was pending before the SLC for compassionate appointment, Assam without any response, the petitioner preferred another writ petition being WP(C) No. 476/2022, praying for a direction to the respondent authorities, more particularly, the State Level Committee for compassionate appointment to take necessary action ensuring that said committee shall consider and take appropriate decision into the application of the petitioner for her compassionate appointment in view of the recommendation made by the DLC for compassionate appointment, Hailakandi in its meeting held on 30.11.2012, wherein her name was recommended for appointment to the post of Assistant Teacher in Upper Primary School, as noted above, taking into account the vacancy position identified by the District Elementary Education Officer, District–Hailakandi.

However, the petitioner on receipt of the decision of the SLC dated 02.02.2013 rejecting her candidature for compassionate appointment due to late submission of her application, withdrew said WP(C) No. 476/2022 with liberty to file appropriate application.

Accordingly, by order dated 19.10.2022 said WP(C) No. 476/2022 of the petitioner was dismissed on withdrawal with liberty as prayed for.

Hence, this writ petition.

From the perusal of the contentions made by the petitioner in her first writ petition being WP(C) No. 4314/2010 filed on 03.08.2010, it is seen that except making a statement that she filed a representation before the concerned Officer i.e., the Deputy Inspector of Schools, Hailakandi at Paragraph 5, she did not state as to when such application was filed by her before the concerned Deputy Inspector (D.I.) of Schools, Hailakandi and as to when such application of the petitioner was duly received by the Office of the Deputy Inspector of Schools, Hailakandi, though she annexed a copy of such representation which she filed

before the D.I. of Schools, Hailakandi giving a date of 15.02.2010, that was without any Receipt and Receipt Number of the Office concerned.

The contention made by the petitioner at Paragraph 5 of said WP(C) No. 4314/2010 does not include any date as to when she filed such representation before the D.I. of Schools, Hailakandi after the death of her husband on 20.07.2009.

From the perusal of the record of WP(C) No. 476/2022 preferred by the petitioner, it is seen that at Paragraph 3 she stated that she applied for her compassionate appointment on 20.10.2009 and this fact she did not state in her previous writ petition in WP(C) No. 4314/2010.

The decision of the DLC, Hailakandi dated 30.11.2012 while considering the case of the petitioner and recommending her name for compassionate appointment in Upper Primary School against the 95 Nos. of Vacant posts of Assistant Teachers occurred during the year 2011 did not contain any date on which the petitioner filed her application for compassionate appointment.

The District Elementary Education Officer, Hailakandi vide its communication No. DEH-57/A/Pt/2022-23/1422 dated 02.02.2023 through the Standing counsel, Department of School Education apprised the Court that when the case of the petitioner was placed before the DLC for compassionate appointment, Hailakandi by the said authority, the date of submission of application for compassionate appointment of the petitioner was shown as 20.10.2012, whereas the concerned Government employee, i.e., the husband of the petitioner expired on 20.07.2009 and under the remark column, WP(C) No. 4314/2010 preferred by the petitioner was recorded.

The said authority by its communication dated 02.02.2023, noted above, submitted that for the purpose of her compassionate appointment, the petitioner earlier on 20.08.2009 submitted an application before the District Elementary Education Officer (DEEO), Hailakandi which was received by the Office of the DEEO, Hailakandi on 20.08.2009 itself and that said application of the petitioner dated 20.08.2009 has been duly attested by the DEEO, Hailakandi on 02.02.2023.

The petitioner in her WP(C) No. 4314/2010 categorically stated that after the death of her husband, she lived in her matrimonial home with her father-in-law and mother-in-

law and that she had no children from her late husband, Ainul Hoque Choudhury.

It is also seen that the petitioner passed her Matriculation (Class-X) with 60.33% and Higher Secondary in Arts with 60.20% as recorded by the DEEO, Hailakandi.

Considering the entire aspect of the matter and for the reasons above, the impugned decision of the State Level Committee for compassionate appointment dated 02.02.2013, rejecting the case of the petitioner for her appointment on compassionate ground due to late submission of her application is hereby set aside and quashed.

Petitioner shall submit a representation along with the certified copy of this order and a copy of this writ petition including the annexures appended thereto, before the Secretary to the Government of Assam in the School Education Department on or before 20.04.2023, obtaining necessary acknowledgment from the said authority in that regard.

The Secretary to the Government of Assam in the School Education Department shall thereafter place the case of the petitioner before the SLC for compassionate appointment on the basis of the recommendation made by the DLC for compassionate appointment, Hailakandi on 30.11.2012 recommending her name for appointment on compassionate ground.

The SLC shall now consider the date of the application of the petitioner for her compassionate appointment as of 20.08.2009 and shall dispose of the same in accordance with law, intimating the petitioner about the outcome of the same.

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

JUDGE

Comparing Assistant