

GAHC010253822022



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

Case No. : WP(C)/11/2023

NITUMANI SARMA
S/O- LT. ABANI SARMA, R/O- VILL- NANDA GAON, P.O. BHADRA- 781334,
P.S. NALBARI, DIST.- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GHY-
06

2:THE CHAIRMAN
STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENTS
DISPUR
GHY-06

3:THE DISTRICT LEVEL COMMITTEE (DLC)
FOR COMPASSIONATE APPOINTMENTS KAMRUP (M) DISTRICT
REP. BY THE CHAIRMAN / THE DY. COMMISSIONER
KAMRUP (M)
GHY-01 NOW AT HENGRABARI
GHY-36

4:THE DIRECTOR OF INLAND WATER TRANSPORT ASSAM
ULUBARI
GHY-0

Advocate for the Petitioner : MD. A MATLIB

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

09.08.2023

Heard Mr. A. Matlib, learned counsel for the petitioner. Also heard Ms. M.D. Borah, learned Standing Counsel, IWT for the respondent No. 4 and Mr. D. Bora, learned Government Advocate for the respondents No. 1 to 3.

2. This writ petition has been filed by the petitioner praying for compassionate appointment in view of the death of his father late Abani Sarma who was employed as 'Ghat Helper' under the Office of the Executive Engineer, Inland Water Transport Department, Guwahati Division. The learned counsel for the petitioner submits that the petitioner is the only son of the deceased employee. His father died in harness on 08.09.2015. The petitioner who is a Graduate applied for the said post immediately after the expiry of his father. The said proposal was considered by the DLC which recommended his appointment to a Grade-III post. The matter was, thereafter, placed before the SLC and the SLC in its meeting held on 21.12.2018 rejected the case of the petitioner for the Grade-III post "due to dearth of vacancy". The learned counsel for the petitioner submits that the petitioner is available to do any job in any grade and therefore, the department ought to have considered the case of the petitioner against other available vacancies.

3. Ms. M.D. Borah, learned counsel for the Department submits that due consideration was given to the petitioner's application and thereupon in view of the lack of vacancies available in a Grade-III post, the petitioner's case was rejected.

4. The learned counsel for the Department disputes the contention of the

petitioner and submits that the petitioner has approached after more than five years after the rejection of the case of the petitioner by the SLC.

5. In rejoinder, the learned counsel for the petitioner submits that a copy of the minutes of the SLC was not furnished to him. Therefore, he was not aware of the decision of the SLC and subsequently he however managed to collect the same upon repeated requests from the Office of the Director, IWD.

6. The learned counsels for the parties have been heard. Pleadings have been carefully perused.

7. Considering the prayer made by the petitioner, a reference to the OM dated 01.06.2015 is necessary. Under Paragraph 15 the said OM, the guidelines specifically prescribes for consideration of vacancies with other departments by the administrative department in the event vacancies are not found to be available in the department in which the proposal was submitted.

8. A perusal of the clause 15 of the said OM is extracted below.:

“15. If sufficient vacancies are not available in any particular office to accommodate, the persons in the waiting list for compassionate appointment, it is open to the administrative Department/ Office to take up the matter with other Departments/Offices of the Government to provide at an early appointment on compassionate grounds to those in the waiting list.”

9. The minutes of the SLC meeting reveals that the case of the petitioner has been rejected only on the ground of no vacancies in respect of Grade-III post. The minutes do not reflect whether the case of the petitioner was given due consideration in respect of any other vacancies that may be available for accommodation of the petitioner under the compassionate scheme.

10. In that view of the matter, this Court is of the view that Paragraph 15 of the OM was not considered and given due consideration by the SLC in its meeting.

11. This Court is of the considered opinion that the matter will require re-consideration by the SLC in terms of Paragraph 15 and the other clauses of the OM dated 01.06.2015. The minutes of the meeting dated 21.12.2018 so far as relates to the writ petitioner is therefore interfered with.

12. The matter is remanded back to the SLC for consideration in terms of the OM dated 01.06.2015 more particularly in respect to the Paragraph 15 of the said OM.

13. The entire exercise has to be considered by the respondent No. 2 within a period of 90 days from the date of receipt of certified copy of this order. The petitioner will furnish a certified copy of this order before the respondent No. 4 who will forward the same to the SLC for re-consideration of the case as directed by this Court in this order.

14. The writ petition stands disposed of in terms of the above direction. No order as to cost.

JUDGE

Comparing Assistant