

GAHC010254132022



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

Case No. : WP(C)/8212/2022

SHRI RITURAJ GOGOI
S/O- LT. DHARANIDHAR GOGOI, R/O- VILL- KONWAR GAON,
DHAKUAKHANA, DIST.- LAKHIMPUR, ASSAM, PIN- 787055

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
ELEMENTARY DEPTT., DISPUR, GHY-06

2:THE DIRECTOR
STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING
GOVT. OF ASSAM
KAHILIPARA
GHY-19

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM KAHILIPARA
GHY-19

4:THE DY. COMMISSIONER AND CHAIRMAN
DISTRICT LEVEL COMMITTEE
LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM

5:THE PRINCIPAL
DHAKUAKHANA NORMAL SCHOOL
DHAKUAKHANA

Advocate for the Petitioner : MR. M DAS
Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

27-01-2023

Heard Mr. M. Das, learned counsel for the petitioner and Mr. A. Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 & 3. Also heard Mr. S. Bora, learned Standing counsel, SCERT for the respondent No. 2.

The father of the petitioner, namely, Dharanidhar Gogoi, was serving as a Physical Instructor of Dhakuakhana Normal School under the Directorate of State Council of Educational Research and Training (SCERT), District-Lakhimpur who died-in-harness on 26.06.1996. The petitioner's date of birth is 12.02.1987 and at the time of death of his father, he was only 9 years 4 months.

After attaining the age of majority of 18 years and on obtaining his B.A. degree from Dibrugarh University in the year, 2020, the petitioner on 04.08.2021 submitted an application before the Principal of Dhakuakhana Normal School, Dhakuakhana, District-Lakhimpur, praying for his appointment on compassionate ground under the Die-in-Harness Scheme on the death of his father and accordingly, the Principal of said Normal School forwarded the same to the Director of SCERT who received it on 09.08.2021.

Thereafter, the case of the petitioner was placed before the District Level Committee (DLC) for compassionate appointment, District-Lakhimpur and the said DLC, Lakhimpur in its meeting held on 17.03.2022 rejected the case of the petitioner because of his late application and being a minor at the relevant time of death of his father.

The Office Memorandum No. ABP.50/2006/Pt/182 dated 01.06.2015 issued by the Personnel (B) Department of the State is with regard to such compassionate appointment of the dependents of the State Government Employees who dies-in-harness or retired prematurely or being declared permanently incapacitated for service is in force.

In the said OM dated 01.06.2015 at Clause 3, it is specified that –*"Every eligible dependent seeking appointment under the said OM (on compassionate ground) shall make an application for appointment on compassionate grounds in the prescribed form with all enclosures within a period of 1 (one) years from the date of death or acceptance of retirement of the employee with the consent letter of the retired employee. In case of missing Government Servant, a request to grant the benefit*

of compassionate appointment can be considered only after a lapse of 7 years from the date of lodging of FIR with the police authorities provided that:-

- (i) The missing person is not traceable as per the police report;*
- (ii) The competent authority feels that the case is genuine."*

The said OM dated 01.06.2015 clearly laid down that the compassionate appointment is not a matter of right clarifying that for the compassionate appointment with regard to Grade-III and Grade-IV posts, the requisite educational qualification shall not be relaxed.

It is well settled in law that the compassionate appointment to the dependent of a deceased government employee who dies-in-harness is given only to provide immediate relief to the family of said deceased who otherwise would stand extinguished.

From the application of the petitioner for his compassionate appointment dated 04.08.2021 submitted in the format prescribed by the said OM dated 01.06.2015 annexed to this petition, it is seen that the petitioner's date of birth is 12.02.1987 and he attained the age of majority of 18 years on 12.02.2005, whereas he filed his application for compassionate appointment on the death of his father Dharanidhar Gogoi on 04.08.2021, which is more than 6 years after attaining the age of his majority of 18 years.

Considering the entire aspect of the matter and the judgment rendered in the case of *Faziron Nessa & others Vs. State of Assam and others* reported in 2010 (4) GLT 340, this Court is of the view that the decision of the District Level Committee for compassionate appointment, District-Lakhimpur dated 17.03.2022 rejecting the case of the petitioner on the ground of delay of filing application for his appointment on compassionate ground under the die-in-harness scheme on the death of his father, does not call for any interference.

Accordingly, this writ petition being devoid of merit, stands dismissed.

JUDGE

Comparing Assistant