

GAHC010256182022



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

Case No. : WP(C)/1184/2023

GITANJALI MOHAN PHUKAN
W/O- LT. JYOTI PRASAD PHUKAN, R/O- VILL- BORMATHURAPUR, P.O.
AND P.S. MOTHURAPUR, IN THE DISTRICT OF CHARAIDEO, ASSAM, PIN-
785689

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE CHIEF SECRETARY-CUM-CHAIRMAN, STATE LEVEL
COMMITTEE, GOVT. OF ASSAM, DISPUR, GHY-06

2:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPTT.
DISPUR
GHY-06

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019
IN THE DISTRICT OF KAMRUP (M)
ASSAM

4:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN
DISTRICT LEVEL COMMITTEE
SIVASAGAR DISTRICT
ASSAM
PIN- 785640

5:THE DEPUTY COMMISSIONER

CHARAIDEO DISTRICT
ASSAM
PIN- 785690

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
SIVASAGAR DISTRICT
ASSAM
PIN- 785640

7:THE DEPUTY INSPECTOR OF SCHOOLS
CHARAIDEO
SONARI
PIN- 78569

Advocate for the Petitioner : MR. M KALITA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-05-2023

Heard Mr. M. Kalita, learned counsel for the petitioner and Ms. D.D.Barman, learned Government Advocate, Assam for the respondent Nos. 1, 4 & 5. Also heard Mr. B. Kaushik, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 2, 3, 6 & 7.

2. The husband of the petitioner, Jyoti Prasad Phukan, an Assistant Teacher of 718 No. of Manuhmari Lower Primary School, Mathurapur, Charaideo, died-in-harness on 23.05.2014. The petitioner applied for her compassionate appointment under the die-in-harness scheme of the State on the death of her husband.

3. Later, pursuant to the communication No. EE/SIV/COMP.APPTT/2015/1179 dated 04.09.2015 of the District Elementary Education Officer (DEEO), Sivasagar, the petitioner re-submitted the relevant documents regarding the death of her husband and her claim for compassionate appointment along with death certificate as well as legal heir certificate of her husband and land holding certificate etc.

4. From the said communication of the DEEO, Sivasagar dated 04.09.2015, it is seen that the name of the petitioner figured at Sl. No. 9. Being unaware about the fate of her said application for compassionate appointment for long since 2015 after re-submission of her details and the documents

in terms of the communication of the DEEO, Sivasagar dated 04.09.2015, the petitioner has preferred this writ petition praying amongst others for direction to the respondent authorities, more particularly, the Deputy Commissioner, Sivasagar-cum-Chairman of the District Level Committee for compassionate appointment, Sivasagar to recommend her name for appointment in Grade-IV post on compassionate ground under the die-in-harness Scheme of the State.

5. Pursuant to the order dated 21.04.2023, Ms. Barman, learned Government Advocate, Assam has placed before the Court a copy of the communication dated 06.05.2023 stating that after such communication of the DEEO, Sivasagar dated 04.09.2015, the case of the petitioner was placed before the DLC for compassionate appointment, Sivasagar on 17.11.2015 and on verification of the relevant records, more particularly, on the basis of family economic condition, landed property and number of dependents, the case of the petitioner for her appointment on compassionate ground under the die-in-harness scheme of the State was rejected as she was found with better economic condition with movable and immovable properties and number of dependents of the deceased husband of the petitioner in comparison to other selected applicants.

6. It is also placed before the Court that by Speaking Order No. SVPP.26/2015/CG/63 dated 04.01.2016, the Deputy Commissioner, Sivasagar through its Personnel Branch informed the petitioner about the said decision of the DLC for compassionate appointment, Sivasagar in terms of the minutes of its meeting held on 17.11.2015.

7. Moreover, after the death of her husband on 23.05.2014, the petitioner survived to exist till now.

8. Regarding compassionate appointment under the die-in-harness scheme of the State, the law is well settled that *the Compassionate Appointment is given as an immediate measure only to get over the death of the bread earner at that point of time and there cannot be any vested right on such appointment except that such consideration can only be done as per prevailing policy. After passage of long time, the sense of immediacy gets lost. The very raison d'être for giving compassionate appointment or compassionate benefit is lost once the immediacy has died down. Once the long time passed by, the compassionate element stands extinguished. A family who could survive for long years would not be entitled to any compassionate benefit since compassionate benefit is not a largesse nor it is a rule in the employment.*

9. Considering the above, at this stage, the Court under Article 226 of the Constitution of India is not inclined to interfere with the findings of the minutes of the meeting held on 17.11.2015 rejecting the case of the petitioner for her appointment on compassionate ground.

10. Accordingly, this writ petition being devoid of merit, stands rejected.

11. Copy of the communication of the Deputy Commissioner, Sivasagar dated 06.05.2023 placed

before the Court by Ms. D.D.Barman, learned Government Advocate, Assam today, be kept as a part of the record.

JUDGE

Comparing Assistant