

GAHC010262552022



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

**Case No. : WP(C)/8170/2022**

SATHIL DEKA  
S/O- LATE LALIT CHANDRA DEKA,  
VILLAGE- NAGAON (HATIMARA),  
P.O.- DIPILA, DISTRICT- DARRANG (ASSAM),  
PIN- 784125.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE SECRETARY,  
WATER RESOURCE DEPARTMENT,  
CHANMARI, GUWAHATI-3.

2:THE CHIEF ENGINEER  
FLOOD CONTROL DEPARTMENT (WATER RESOURCE DEPARTMENT)  
CHANDMARI  
GUWAHATI- 3.

3:THE EXECUTIVE ENGINEER  
E AND D DIVISION (WATER RESOURCE DEPARTMENT)  
MANGALDOI DIVISION

DARRANG  
PIN- 784125.

4:THE DEPUTY COMMISSIONER CUM CHAIRMAN  
DISTRICT LEVEL COMMITTEE  
DARRANG  
MANGALDOI  
PIN- 784125

**Advocate for the Petitioner : MD. A J ATIA**

**Advocate for the Respondent : SC, WATER RESOURCE**

**BEFORE  
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 02.08.2023**

Mr. A.J. Atia, learned counsel for the petitioner. Also heard Mr. R.M. Das, learned standing counsel for the respondent nos.1 to 3; and Mr. T.C. Chutia, learned Additional Senior Govt. Advocate appearing for the respondent no.4.

2. The rejection of the candidature of the petitioner for appointment on compassionate ground vide DLC meeting held on 31.05.2019 is under challenge in this writ petition filed under Article 226 of the Constitution of India.

3. In brief, the case of the petitioner is that his father, who was otherwise due to superannuate on 15.03.2000, was awarded invalid pension on 08.12.1999. It is projected that in terms of OM No. ABP.357/80/137 dated 09.09.1983, the petitioner became entitled to seek appointment on compassionate ground in terms of the said OM and accordingly, application for appointment on compassionate ground was submitted on 17.12.1999. The case of the petitioner was considered by the DLC in its meeting held on 19.05.2007 by recommending the name of the petitioner along with others. However, the SLC in its meeting held on 28.07.2008, rejected the case of the petitioner. The aggrieved petitioner then moved this Court by filing WP(C) 4046/2009 and this Court by order dated 26.10.2017, issued a direction upon the respondent authorities to consider the claim of the petitioner as was considered for two similarly situated persons. The said order was not complied with and therefore,

the petitioner had filed a contempt petition, which was registered as Cont.Cas(C) No. 535/2018. During the pendency of the said contempt petition, the case of the petitioner was placed before the DLC in its meeting held on 31.05.2019 and on consideration that the proposal of the petitioner was rejected earlier by the DLC on 19.05.2007 and that 20 (twenty) years had already lapsed, the claim of the petitioner was rejected, which is impugned in the present writ petition.

4. The learned counsel for the petitioner has placed reliance on the judgment dated on 22.02.2019 passed by the Division Bench of this Court in WA 348/2017 and it is submitted that in the said decision, this Court had held that the non-consideration of the application for compassionate appointment of the petitioner cannot be attributed to the concerned applicant and therefore, a direction was issued to the concerned authorities to place the case of the appellant therein before the SLC in its next meeting. Accordingly, it is submitted that the delay in disposal of the application of the petitioner for compassionate appointment cannot be attributed to the petitioner and therefore, the petitioner cannot be punished by non-consideration of his claim for compassionate appointment due to inordinate delay on part of the respondent authorities to dispose of the application of the petitioner for compassionate appointment.

5. The learned Additional Senior Govt. Advocate has opposed the prayer made in this writ petition.

6. An objection is also raised on the point that the father of the petitioner was otherwise due to superannuate on 15.03.2000, but he got an invalid pension on 08.12.1999 and the petitioner had applied for compassionate appointment in lieu of the post held by the father of the petitioner.

7. Be that as it may, in this case, it is not in dispute that the petitioner had submitted an application for being appointed on compassionate ground purportedly on 17.12.1999. Therefore, as on date, the application of the petitioner would be about 24 years old. This Court in the case of *Achyut Ranjan Das V. State of Assam, 2006 (4) GLT 674 : 2006 0 Supreme Gau 217*, it has been observed in sub-paragraph-X of paragraph-7 that if the applications of eligible candidates remain pending and not considered due to want of vacancy for a period of 2 (two) years from the date of making such application, all such application would require no further consideration and must be understood to have spent their force.

8. In this case, the father of the petitioner had superannuated on invalid pension of 08.12.1999. Therefore, the claim of the petitioner for compassionate appointment must relate to a vacancy which existed during the year 1999-2000. Under the scheme prevailing at that stage, only 5% of vacancies could have been filled up by way of compassionate appointment under the then prevailing OM dated 09.09.1983. There is no material available before this Court that any vacancy relating to 5% vacancy for compassionate appointment relatable to the year 1999-2000 is still available. Therefore, the Court finds that the claim of the petitioner for compassionate appointment cannot be directed to be re-considered by the DLC on account of the fact that vacancy relatable to the year 1999-2000 would not be available after lapse of 24 years.

9. Accordingly, the Court is disinclined to entertain this writ petition on the ground that the claim of the petitioner is deemed to have been spent its force after lapse of 24 years from the date of application and there is no material available in this writ petition that the vacancy relatable to the year

1999-2000 under the 5% quota for compassionate appointment is still available.

10. Accordingly, this writ petition stands dismissed.

11. There shall be no order as to cost.

**JUDGE**

**Comparing Assistant**