

GAHC010264752017



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

Case No. : WP(C)/4688/2017

RAJUMONI BORA @ RAJU BORA
S/O- LATE ANANDA BORA, R/O- KATHALGURI, P.O AND P.S- KAMPUR,
DIST- NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. THROUGH THE SECRETARY TO THE GOVT OF ASSAM,
EDUCATIONELEMENTARY DEPTT., SACHIVALAYA, DISPUR, GUWAHATI- 6

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON
ASSAM

4:THE DEPUTY INSPECTOR OF SCHOOLS
NAGAON
ASSA

Advocate for the Petitioner : MS.H DEKA

Advocate for the Respondent :

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03.01.2023

Heard Mr. B.D. Goswami, learned counsel for the petitioner and Mr. P.K. Borah, learned Standing counsel, Elementary Education Department, Assam for all the official respondent Nos. 1 to 4.

The father of the petitioner, namely, Ananda Bora was a regular Grade-IV employee in the office of the Block Elementary Education Officer, Kathiatoli, Nagaon, who died-in-harness on 24.10.2004. Said Ananda Bora at the time of his death, left behind his wife, the petitioner, another minor son and two minor daughters.

The petitioner being the eldest son and eligible for Grade-IV post, applied for his compassionate appointment to the post of Grade-IV before the Deputy Inspector of Schools, Nagaon through the Block Elementary Education Officer, Kathiatoli, Nagaon.

The application of the petitioner for his compassionate appointment was forwarded to the Director of Elementary Education, Assam by the Deputy Inspector of Schools, Nagaon on 25.07.2005 as the said process was followed for consideration of compassionate appointment prior to the judgment passed by this Court in the case of *Achyut Ranjan Das Vs. State of Assam* reported in 2006 (4) GLT 674.

It is submitted by the petitioner that inspite of the direction issued by the Court in the case of *Achyut Ranjan Das* (Supra), his case was not considered by the committee concerned for his compassionate appointment on the death of his father.

It is also submitted by the petitioner that the Block Elementary Education Officer, Kathiatoli vide memo No. 2435-37 dated 25.08.2003 allowed him to serve as an honorary Night Chowkidar in its office so as to keep the materials and other goods in safe custody in the office of the BEEO, Kathiatoli supplied by the Assam Sarva Siksha Abhiyan.

After approaching the various authorities, the petitioner filed this writ petition on 02.08.2017 praying for a direction to the respondents herein to place his case before the concerned District Level Committee and the State Level Committee for compassionate appointment and to consider his case for compassionate appointment to the Grade-IV post on the death of his father, who died-in-harness.

Notice in this case was issued on 07.08.2017, but till date, the respondent authorities have not filed any affidavit in the matter and also have not placed any written information before the Court regarding consideration of the case of the petitioner for his compassionate appointment.

Though more than 18 years have elapsed from the date of death of the father of the petitioner but as per the judgment passed by this Court in the case of *Achyut Ranjan Das Vs. State of Assam* reported in 2006 (4) GLT 674, it was the duty of the authorities concerned to place all such pending cases before the concerned District Level Committees for compassionate appointment and to consider the cases in accordance with law for compassionate appointment in the specified quota of post for such appointment only compassionate ground.

Since the respondents have not filed any affidavit in the matter inspite of issuance of notice on 07.08.2017, it can be well presumed and ascertained that the case of the petitioner was never considered for his compassionate appointment by the respondent authorities though his application for compassionate appointment was pending before the Director of Elementary Education, Assam as reflected in the communication under No. 8848 dated 25.07.2005 of the Deputy Inspector of Schools, Nagaon (Annexure-6 to this petition).

After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of directing the petitioner to submit a fresh application enclosing his educational qualifications and other relevant documents along with a certified copy of this order for his compassionate appointment **on or before 20.01.2023** before the Block Elementary Education Officer, Kathiatoli, District-Nagaon.

In the event of filing such application by the petitioner before the Block Elementary Education Officer, Kathiatoli, Nagaon within the time as specified above, the said authority shall forward the same to the Deputy Inspector of Schools, Nagaon who in turn shall place it before the District Level Committee for compassionate appointment in the District of Nagaon in its next meeting for necessary consideration of the case of the petitioner for compassionate appointment.

Further, the DLC for compassionate appointment, Nagaon shall consider the case of the petitioner for his compassionate appointment in a Grade-IV post in accordance with law and the relevant guidelines in force as applicable at the time of consideration of such case for compassionate appointment. Thereafter, the DLC for compassionate appointment, Nagaon shall intimate the petitioner about the outcome of his said application in terms of the judgments passed in the cases of *Achyut Ranjan Das (Supra) and Faziron Nessa & others Vs. State of Assam* reported in 2010 (4) GLT

340.

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

JUDGE

Comparing Assistant