

GAHC010264902022



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

Case No. : WP(C)/1/2023

SAHIL AHMED CHOUDHURY
S/O LATE ALTAF HUSSAIN CHOUDHURY, R/O BHAIKABNAGAR, P.O.-
KRISHNAPUR, SILCHAR, DIST-CACHAR, ASSAM, PIN-788025

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-6

2:THE INSPECTOR GENERAL OF POLICE
ASSAM
GUWAHATI-7

3:THE DISTRICT LEVEL COMMITTEE
REPRESENTED BY ITS CHAIRMAN
DEPUTY COMMISSIONER
CACHAR
SILCHAR
DIST-CACHAR

4:THE COMMANDANT
6TH A.P BATTALION
KATHAL
SILCHAR
DIST-CACHAR
ASSA

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

O R D E R

04.01.2023

Heard Mr. I Alam, learned counsel for the petitioner and Mr. H Sharma, learned Additional Senior Government Advocate for the respondents.

2. The father of the petitioner Altaf Hussain Choudhury, who was a constable under the Commandant, 6th APBN, Kathal, in the Cachar district, died in harness on 27.07.2007 and on his death, the petitioner made an application for compassionate appointment on 13.08.2019. The said application was considered by the DLC of Cachar district in its meeting of 06.03.2020 and it stood rejected by providing that the application had spent its force and there was a late submission.

3. It is stated that admittedly the petitioner was about six years old when his father had died and he had made the application after attaining majority. Although decisions of the Hon'ble Supreme Court to the contrary are available that a post for compassionate appointment cannot be kept reserved, but in Syed Khadim Hussain vs State of Bihar, reported in (2006) 9 SCC 195, it had also been provided that in the event an applicant is a minor at the time of death and makes an application after attaining majority, the same can also be given its consideration.

4. As the application of the petitioner was placed before the DLC and admittedly the petitioner was a minor when his father had died and had made the application upon attaining majority, the rejection of such application on a

technical ground of late submission or that the application had spent its force may not do complete justice to the applicant.

5. The provision of avoiding late submission of application is on the principle that if the family could survive for a particular period of time, there is also a corresponding presumption that the family does not need any further compassionate appointment. The said principle is correct if it is looked from a particular point of view. But again, a further question would remain as to in what manner the family survived for the intervening period in a circumstance where no competent person was available for seeking compassionate appointment for the intervening period.

6. From such point of view, we remand the matter back to the DLC of Cachar district and require the DLC to make a through enquiry as to in what manner and under what circumstance the family of the petitioner had survived for the intervening period and whether such survival can still be considered to be a state of adverse financial situation or the facts of the present case shows that the family of the petitioner survived in an acceptable financial condition.

7. The DLC to make further consideration after embarking into the aforesaid enquiry as indicated above. The enquiry be made through any competent officer within the Cachar district administration and its report may be acted upon by the DLC while considering the case of the petitioner afresh.

The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant