

GAHC010267612022



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

Case No. : WP(C)/8421/2022

MS. FARIDA HANNAN
D/O LATE BEGUM JOBEDA KHATUN, VILL-KALBARI, P.S.-ABHAYAPURI,
DIST-BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-781006

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

3:THE CHAIRMAN
DISTRICT LEVEL COMMITTEE (DLC)
CUM DEPUTY COMMISSIONER
BONGAIGAON
ASSAM
783384

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON
ASSAM
PIN-78838

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : SC, EDU

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12-04-2023

Heard Mr. P. Rahman, learned counsel for the petitioner and Ms. N. Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1, 2 & 4. Also heard Ms. D. D. Barman, learned Government Advocate, Assam for the respondent No. 3.

Mother of the petitioner, namely, Begom Jabeda Khatun, an Assistant Teacher of North Salmara Lower Primary School, Abhayapuri, District-Bongaigaon, died-in-harness on 04.07.1998.

The petitioner stated that on 13.07.1999, she filed an application before the District Elementary Education Officer, Bongaigaon for consideration of her case for compassionate appointment. Her said application for compassionate appointment was considered by the District Level Committee (DLC) for compassionate appointment, District-Bongaigaon in its meeting held on 21.09.2021 and the said DLC, Bongaigaon, rejected her case for compassionate appointment on finding that though the applications for compassionate appointment of the petitioner were made during the years 1999, 2006, 2007 & 2017 but the District Elementary Education Officer, Bongaigaon did not submit such proposal before the concerned DLC meetings held in the consecutive years till the said date, i.e., 21.09.2021.

Since all the applications of the petitioner for her compassionate appointment submitted in the years 1999, 2006, 2007 & 2017, were pending for consideration and were placed before the DLC, Bongaigaon only on 21.09.2021 that is after more than 20 years from the date of death of her mother, the said DLC, Bongaigaon following the Office Memorandum No. ABP.50/2006/Pt/182 dated 01.06.2015 of the State Government in the Personnel (B) Department, rejected the case of the petitioner along with four others for their appointments on compassionate ground.

Mr. Rahman, learned counsel for the petitioner submitted that one of such 5 rejected candidates including the petitioner, namely Mehbub Ali against such rejection of the DLC, Bongaigaon dated 21.09.2021 for his compassionate appointment, approached this Court in WP(C) No. 1356/2022, wherein the Court by order dated 28.02.2022 remanded back the matter to the DLC, Bongaigaon for

necessary consideration since the Principle-10 of the said Office Memorandum dated 01.06.2015, noted above, is not applicable to the said petitioner.

After the said order dated 28.02.2022 passed in said WP(C) No. 1356/2022, the petitioner has filed this writ petition on 20.12.2022 against similar rejection of her claim for compassionate appointment rejected by the DLC, Bongaigaon on 21.09.2021.

The petitioner has annexed a copy of the said Office Memorandum dated 01.06.2015 as Annexure-VII to this petition.

The petitioner has admitted the fact that her mother expired on 04.07.1998 and she filed her application for compassionate appointment on 13.07.1999.

Principle/Clause 3 of the said Office Memorandum dated 01.06.2015 clearly indicates that *Every eligible dependent seeking appointment under this OM shall make an application for appointment on compassionate grounds in the prescribed form with all enclosures within one year from the date of death or acceptance of retirement of the employee with consent letter of the retired employee, as the case may be.*

In the case of *Faziron Nessa & others Vs. State of Assam* reported in 2010 (4) GLT 340, the Court has already laid down the law that such application for compassionate appointment under the die-in-harness scheme of the State, should be made within a period of one year from the date of death of the Government employee.

In the case in hand, the petitioner applied for her compassionate appointment on 13.07.1999 after more than one year from the date of death of her mother on 04.07.1998.

Considering the above, the Court is of the view that the petitioner is not entitled for appointment on compassionate ground under the die-in-harness scheme of the State.

Moreover, it 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.

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

JUDGE

Comparing Assistant