

GAHC010268362022



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

Case No. : WP(C)/8390/2022

WASIK AHMED AND ANR.
S/O- LATE MD. ABDUL JABBAR,
RESIDENT OF VILLAGE- HAIDUBI,
P.O. AND P.S.- BATAMARI,
DIST.- NAGAON, ASSAM- 782122.

2: JUSHIA AHMED
D/O- LATE MD. ABDUL JABBAR

RESIDENT OF VILLAGE- HAIDUBI

P.O. AND P.S.- BATAMARI

DISTRICT- NAGAON
ASSAM- 78212

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
EDUCATION DEPARTMENT (ELEMENTARY), DISPUR, GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION DEPARTMENT (ELEMENTARY)
DISPUR
GUWAHATI- 781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
GUWAHATI- 781019.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

NAGAON
ASSAM
PIN- 782001.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

BATADRABA
NAGAON.

6:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782001

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

01-02-2023

Heard Mr. Lentso, learned counsel appearing on behalf of Mr. A. Sarma, learned counsel for the petitioners and Mr. P.N. Sarma, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 5. Also heard Mr. G. Bokolial, learned Government Advocate, Assam for the respondent No. 6.

The father of the petitioners namely, Abdul Jabbar who was an Assistant Teacher of Hajee Amjat Ali Batamari Haidubi M.E. Madrassa in the Batadraba Education Block, District-Nagaon, a provincialised M.E. Madrassa of the State, died-in-harness on 02.03.2013.

The petitioner No. 2, Jushia Ahmed being a major at the relevant point of time and passed Higher Secondary, filed an application on 20.05.2013 before the Chairman of the District Level Committee for compassionate appointment, Nagaon-cum-Deputy Commissioner, District-Nagaon for her appointment to the post of Assistant Teacher in a provincialised Lower Primary School on compassionate ground under the Die-in-Harness Scheme on the death of her father.

Since her said application dated 20.05.2013 for compassionate appointment under the Die-in-Harness Scheme of the State was not considered by the District Level Committee for compassionate

appointment of Nagaon District, she preferred a writ petition being WP(C) No. 1056/2014.

By order dated 28.02.2014, the Court disposed of said WP(C) No. 1056/2014 preferred by the petitioner No. 2 directing the District Elementary Education Officer, Nagaon as well as the Block Elementary Education Officer, Batadraba, Nagaon to place her case before the said DLC under the Chairmanship of the Deputy Commissioner, District-Nagaon within a period of two weeks from the date of receipt of said order and further, directed the concerned DLC, District-Nagaon to examine her case and thereafter to take an appropriate decision in accordance with law in the next meeting of the said DLC or at any rate within a period of four weeks from the date of receipt of application from the DEEO, Nagaon as well as the BEEO, Batadraba, Nagaon.

It is brought to the notice of the Court that before disposal of said WP(C) No. 1056/2014 on 28.02.2014 that was preferred by the petitioner No. 2, the said DLC, Nagaon considered her case and rejected it.

It is stated that as the case of the petitioner No. 2 was not considered by the authority concerned and in the meanwhile, the petitioner No. 1 attained the age of majority of 18 years, who passed H.S. examination in the year, 2017, he (petitioner No. 1) submitted an application on 29.12.2022 before the Chairman of District Level Committee for compassionate appointment, Nagaon-cum-Deputy Commissioner, Nagaon praying for his appointment on compassionate ground on the death of his father.

The petitioner No. 2 submitted that as the petitioner No.1 who is her brother, filed an application on 29.12.2022 for his appointment on compassionate ground, noted above, she has no objection, if his case is considered by the authorities concerned providing him compassionate appointment under the die-in-harness scheme of the State on the death of their father.

Pursuant to the order dated 02.01.2023, Mr. Bokolial, learned Government Advocate, Assam placed before the Court a copy of the minutes dated 10.12.2013 of the District Level Committee for compassionate appointment, District-Nagaon apprising that prior to the order dated 28.02.2014 passed in said WP(C) No. 1056/2014 that was preferred by the petitioner No. 2, her case was considered by the DLC on 10.12.2013 and did not recommend her name for compassionate appointment for want of vacancy.

From the High School Leaving Examination Pass Certificate, February, 2014 of the petitioner No. 1 issued by the Board of Secondary Education, Assam on 28.05.2014 annexed to petition, it is seen that the date of birth of the petitioner No. 1 is 16.11.1997. As such, at the time of death of his father

Abdul Jabbar on 02.03.2013, the petitioner No. 1 was only 15 years 3 months 17 days. As such, he was a minor at that time and he attained the age of majority of 18 years on 16.11.2015.

However, the petitioner No.1 filed his application for compassionate appointment under the die-in-harness scheme on the death of his father only on 29.12.2022 which is more than 7 years after attaining the age of majority of 18 years.

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.

In the case in hand, the case of the petitioner No. 2 was earlier considered by the DLC, Nagaon for compassionate appointment on 10.12.2013 and her name could not be recommended due to want of vacancy and further, the petitioner No. 1 applied for his appointment on compassionate ground under the Die-in-Harness Scheme of the State on the death of his father, Abdul Jabbar only on 29.12.2022, nine years after his death and seven years after attaining the majority in November, 2015.

For the reasons above, the case of the petitioners for their appointment on compassionate ground under the die-in-harness scheme of the State on the death of their father Abdul Jabbar on 02.03.2013, having no merit, stands dismissed.

Copy of the minutes dated 10.12.2013 of the District Level Committee for compassionate appointment, District-Nagaon placed before the Court today by Mr. Bokolial, learned Government Advocate, Assam, be kept as a part of the record.

JUDGE

Comparing Assistant