

GAHC010004362023



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

Case No. : WA/37/2023

HASIB HUSSAIN
S/O LATE NAZIR HUSSAIN, VII. WARD NO. 2, GAURIPUR, P.O. AND P.S.
GAURIPUR, DIST-DHUBRI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY COMMISSIONER AND SECRETARY, GOVT. OF ASSAM, IRRIGATION
DEPTT. DISPUR, GUWAHATI- 06.

2:THE STATE LEVEL COMMITTEE
CONSTITUTED FOR APPOINTMENT ON COMPASSIONATE GROUND IN
RESPECT OF IRRIGATION DEPTT. REP BY THE PRINCIPAL SECRETARY TO
THE GOVT. OF ASSAM
PERSONNEL (B) DEPTT. DISPUR
GUWAHATI-06

3:THE DISTRICT LEVEL COMMITTEE
DHUBRI
REP. BY ITS CHAIRMAN OFFICE OF THE DEPUTY COMMISSIONER
DHUBRI
ASSAM

4:THE CHIEF ENGINEER
IRRIGATION
ASSAM
CHANDMARI
GUWAHATI-3

5:THE EXECUTIVE ENGINEER
DHUBRI DIVISION (IRRIGATION)
GAURIPUR ASSA

For the appellant : Mr. K.D. Sarma, Advocate
For the respondents : Ms. D.S. Neog, Advocate
For respondent Nos.1, 4, 5
Mr. D.K. Sarma,
Addl. Senior Govt. Advocate, Assam
for respondent Nos.2 & 3

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

23-02-2024

(Vijay Bishnoi, C.J.)

This intra-Court appeal is filed by the appellant being aggrieved with the order dated 05.12.2022 passed by the learned Single Judge in WP(C) 8197/2019 whereby the writ petition filed by the petitioner has been dismissed.

2) The petitioner had approached the learned Single Judge seeking a direction to the respondent Irrigation Department to take a decision on the proposal for compassionate appointment of the petitioner in Grade-III (Section Assistant) post as recommended by the District Level Committee ('DLC' for short) in its meeting held on 13.11.2017 within a stipulated time.

3) The learned Single Judge after taking into consideration the stand of the respondents has observed that the petitioner's case had not been recommended even by the DLC, although his application was found to be in order, taking into account that there was no vacancy. Learned Single Judge has further opined that as the case of the petitioner was not even recommended by the DLC, there is no question of examining the case of the petitioner by the State Level Committee. The learned Single Judge has further observed that the appellant filed an application for

being appointed on compassionate ground in the year 2017 and already 5 years had passed by and taking into consideration the Principle-10 as mentioned in Clause No.11 of the Office Memorandum dated 01.06.2015, no direction could be given to the respondent authorities to consider the case of the appellant as 2 years, as mandated by the Office Memorandum dated 01.06.2015, had already elapsed and there was no vacancy available.

4) This Court vide order dated 04.04.2023 directed the Government Advocate to take instruction as to whether the case of the appellant for compassionate appointment can be considered in light of Clause 15 of the Office Memorandum dated 01.06.2015. In response to that, learned counsel for the respondents has submitted that even in the other departments also no vacancy existed at that point of time and therefore, appointment on compassionate ground could not be offered to the appellant. Learned counsel for the respondents has further submitted that as a matter of fact, the appellant applied for the post of Section Assistant. However, admittedly, the appellant was not having requisite qualifications for appointment on the said post.

5) Be that as it may, taking into consideration overall facts and circumstances of the case, we do not find any illegality in the order dated 05.12.2022 passed by the learned Single Judge. Hence, we do not find any merit in the appeal and the same is, therefore, dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant