

GAHC010010612024



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

Case No. : WP(C)/360/2024

MS. KANCHAN BASUMATARY
D/O LATE PRAMOD KISHORE BASUMATARY, R/O LECHERA, KARDAIGURI,
DIST-BAKSA (BTR), ASSAM, PIN-781318

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-6, ASSAM

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
URBAN DEVELOPMENT DEPARTMENT
DISPUR, GUWAHATI-781006

3:THE DIRECTOR OF MUNICIPAL ADMINISTRATION
ASSAM, DISPUR, GANESHGURI
NEAR GANESH MANDIR
ASSAM, 781006

4:THE STATE LEVEL COMMITTEE (SLC)
REPRESENTED BY THE CHAIRMAN OF THE STATE LEVEL COMMITTEE
(SLC), DISPUR, GUWAHATI-6, ASSAM

5:THE CHAIRMAN
DISTRICT LEVEL COMMITTEE CUM DEPUTY COMMISSIONER
KAMRUP (M), GUWAHATI, ASSAM

Advocate for the Petitioner : MR D DEKA
Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

:: ORDER ::

07-02-2024

Heard Mr. D. Deka, learned counsel for the petitioner. Also heard Mr. J.K. Goswami,

learned Additional Senior Government Advocate, appearing on behalf of respondents.

The father of the petitioner while serving as Mouharrer in the department of Municipal Administration, died-in-harness on 22-08-2014. Thereafter, the petitioner made an application in prescribed format praying for appointment on compassionate ground on 16-09-2014. The case of the petitioner was considered by the concerned District Level Committee (DLC) in its meeting dated 25-10-2016 and was recommended for appointment on compassionate ground. The State Level Committee (SLC), in its meeting held on 19-07-2019, did not recommend the case of the petitioner due to lack of vacancy in the department. Thereafter, the Secretary to the Government of Assam, Urban Development Department issued an order dated 19-09-2019 to the effect that as there is no vacancy for appointment on compassionate ground and as the posts have already been filled up in the Directorate of Municipal Administration, Assam, the recommendation of the DLC could not be considered. Being aggrieved, the petitioner is before this Court by way of the present writ petition.

The object of granting compassionate appointment is to enable the family of the deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible for such employment. The compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution.

This Court has noticed that the father of the petitioner died as early as on 22-08-2014 and the petitioner made her application on 16-09-2014. Thereafter the DLC recommended the case of the petitioner on 25-10-2016. However, due to

lack of vacancy, the petitioner's case could not be recommended by the SLC in its meeting dated 19-07-2019. Thereafter, the petitioner kept quiet and filed the present writ petition only in the year 2024, which is about 5 years after the non-recommendation by the SLC.

This Court has also considered the submission of the learned counsel for the petitioner that in terms of the order dated 19-09-2019, the Director, Municipal Administration, Assam, was to inform the petitioner about the non-recommendation by the SLC due to lack of vacancy. It is also submitted that the petitioner was not informed about the same and he came to know about the non-recommendation by the SLC only in the year 2023. However, this Court is not impressed by the submission of the learned counsel for the petitioner.

It would be of no avail to grant compassionate appointment to the dependant of the deceased family after the crisis which arose on account of the death of the bread-winner has been overcome.

The delay, either on the part of the petitioner or on the part of the respondents dilutes the immediacy of the case. As the petitioner has been able to sustain herself after the death of her father on 22-08-2014, i.e., about 10 years from today, I find no merit in the present writ petition and the same is accordingly dismissed.

JUDGE

Comparing Assistant