

GAHC010061812021



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

Case No. : WP(C)/2323/2021

MD. FAZRUL ISLAM
S/O. LT. JALALUDDIN AHMED, R/O. KOKRAJHAR TOWN, IRRIGATION
COLONY-2, WARD NO.10, P.O. AND P.S. KOKRAJHAR DIST. KOKRAJHAR,
BTC, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
IRRIGATION DEPTT., DISPUR, GUWAHATI-06.

2:THE CHIEF ENGINEER

IRRIGATION DEPTT.
CHANDMARI
GUWAHATI-03.

3:THE PRINCIPAL SECRETARY

B.T.C.
KOKRAJHAR
DIST. KOKRAJHAR (BTAD)
ASSAM.

4:THE SECRETARY

BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
DIST. KOKRAJHAR(BTAD)
ASSAM.

5:THE SUPERINTENDING ENGINEER

NORTH GOALPARA CIRCLE (IRRIGATION)
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM.

6:THE EXECUTIVE ENGINEER

KOKRAJHAR DIVISION (IRRIGATION)
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM.

7:THE DIST. LEVEL COMMITTEE

BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR (TO BE REP. BY ITS CHAIRMAN CUM THE PRINCIPAL
SECRETARY
B.T.C.
KOKRAJHAR
DIST. KOKRAJHAR (BTAD)
ASSAM.

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE K. SEMA

ORDER

19.03.2024

Heard Mr. M.A.I. Hussain, learned counsel for the petitioner, Mr. P. Nayak, learned Standing Counsel, BTC for the respondent Nos. 3,4,5,6&7 and Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department, for the respondent Nos. 1 & 2.

2. The case of the petitioner in brief is that, the petitioner's father, namely Jalaluddin Ahmed died in harness on 02.07.2004 while

serving as Section Assistant in the Office of the Executive Engineer, Kokrajhar division (Irrigation), Kokrajhar, leaving behind his wife, four sons including the petitioner and a daughter.

3. That after the death of the petitioner's father, the petitioner, who had studied up to Class-X submitted the application dated 29.11.2004 to the Executive Engineer, Kokrajhar division (Irrigation), Kokrajhar, for compassionate appointment. Along with the application the petitioner submitted all his documents and testimonials in the duly filled up prescribed form.

4. That the Executive Engineer, Kokrajhar division (Irrigation) vide his letter dated 02.12.2004 forwarded the application submitted by the petitioner to the Chief Engineer, Irrigation Department, for appointment to Grade-IV post.

5. That the Chief Engineer, Irrigation Department, vide his letter dated 23.06.2005 returned back the application and the particulars of the petitioner to the Executive Engineer, Kokrajhar division (Irrigation) with the direction to submit the same to the Principal Secretary, Bodoland Territorial Council (BTC). Accordingly, as per the instruction the Executive Engineer, Kokrajhar division (Irrigation), by his letter dated 12.08.2005 submitted the application and the other particulars of the petitioner to the Office of the Principal Secretary, BTC, for approval of the appointment of the petitioner on compassionate appointment. That apart, the Superintendant Engineer, North Goalpara Circle (Irrigation), Kokrajhar, vide letter dated 06.09.2005 forwarded the proposal for appointment of the petitioner under compassionate appointment to the Principal Secretary, BTC, Kokrajhar. Pursuant thereto, the Under Secretary, BTC, by letter

dated 13.09.2005 asked the Superintendant Engineer, North Goalpara Circle (Irrigation), Kokrajhar, to furnish the detailed reports of the petitioner and others for taking necessary action on the matter. Thereafter, the Superintendant Engineer, North Goalpara Circle (Irrigation), Kokrajhar, by his letter dated 17.12.2005 requested the Under Secretary, BTC, to furnish necessary information as to what reports were to be submitted for considering the compassionate appointment of the petitioner and others.

6. That when the matter was thus situated, this Hon'ble Court vide judgment and order dated 03.08.2006, passed in WP(C)/3875/2005 [*Achyut Ranjan Das vs. the State of Assam & Ors.*] laid down the guidelines for consideration of cases of compassionate grounds. Vide the said judgment guidelines are framed for constitution of District Level Committees (DLC) in each and every district of the State and a State Level Committee for the State which will hold their meetings twice in a year. Vide the said judgment this Hon'ble Court further directed the authorities to consider all pending cases claiming compassionate appointment even those who are not before this Hon'ble Court as a one-time measure as per the guidelines framed vide the said judgment.

7. Consequent to the judgment and order dated 03.08.2006, passed by this Court one District Level Committee (DLC) in each district and a State Level Committee for the State has been constituted and accordingly, as per the guidelines, the pending cases for compassionate appointment were to be placed before the DLC.

8. It is however, the case of the petitioner that his case for compassionate appointment was not placed before the DLC, BTC. The petitioner has from time to time sought information regarding his case for

compassionate appointment and has also responded to all the queries sought for by the Department but, nothing materialized. That it was only on 04.09.2017 that the Secretary, BTC, Kokrajhar, vide his letter dated 04.09.2017 asked the Executive Engineers of various divisions of Irrigation Department to take a convenient date from the Principal Secretary, BTC for holding the DLC meeting. But, inspite of such direction from the Secretary, BTC, who is also the Chairman of DLC, BTC, no DLC meeting has been held. Again on 14.12.2017 the Deputy Secretary, BTC, Kokrajhar, by his letter dated 14.12.2017 asked the Executive Engineer, Kokrajhar division (Irrigation) to arrange a DLC meeting in consultation with the Principal Secretary, BTC, for placing the proposal of appointment on compassionate ground. However, inspite of all such directions the case of the petitioner has not been placed before the DLC, BTC, Kokrajhar, till date.

9. Being aggrieved with the inaction of the official respondents in convening a DLC for considering the compassionate appointment of the petitioner, the present writ petition has been filed.

10. Mr. P. Nayak, learned Standing Counsel for the BTC as well as Mr. N. Upadhyay, learned Standing Counsel for the Irrigation Department submits that the present writ petition can be disposed of with the direction to the official respondents to consider the application dated 29.11.2004 in the next DLC, BTC in terms of the Office Memorandum dated 01.06.2015 and in accordance with law. Mr. M.A.I. Hussain, learned counsel for the petitioner is not averse to the submission made by the learned counsel for the respondents.

11. In the light of the submissions made by the learned counsel

for the parties, this Court proposes to dispose of the writ petition with a direction to the concerned authorities to positively place the application dated 29.11.2004 submitted by the petitioner for compassionate appointment in the next District Level Committee, Bodoland Territorial Council, Kokrajhar. The District Level Committee, Bodoland Territorial Council, Kokrajhar, shall thereafter consider the application dated 29.11.2004 submitted by the petitioner in terms of the Scheme formulated by the Government for compassionate appointment in the Office Memorandum dated 01.06.2015 and in accordance with law.

12. With the above directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant