

GAHC010081902024



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

Case No. : WP(C)/2264/2024

NITYANANDA GIRI
SON OF LATE PARAMANANDA GIRI, RESIDENT OF HOUSE NO. 5, BYE
LANE NO.2, GOVT. PRESS ROAD, P.O. BAMUNIMAIDAM, GUWAHATI-
781021, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, PUBLIC WORKS (BUILDING AND NH)
DEPARTMENT, DISPUR, GUWAHATI- 06

2:THE CHIEF ENGINEER
PUBLIC WORKS (BUILDING) DEPARTMENT
CHANDMARI
GUWAHATI-3

3:THE EXECUTIVE ENGINEER
PUBLIC WORKS BUILDING DEPARTMENT
PCC DIVISION
DISPUR
GUWAHATI-06

4:THE STATE LEVEL SCRUTINY COMMITTEE FOR COMPASSIONATE
APPOINTMENT
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR
GUWAHATI-6

5:THE DISTRICT LEVEL SCRUTINY COMMITTEE FOR COMPASSIONATE
APPOINTMENT
KAMRUP (M) REPRESENTED BY THE DEPUTY COMMISSIONER
KAMRUP (M)
GUWAHATI
ASSAM, PIN- 78100

Advocate for the Petitioner : MR. N J KHATANAR
Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

:: O R D E R ::

01-05-2024

Heard Mr. N.J. Khataniar, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned standing counsel, PWD, for respondent Nos. 1, 2 & 3 as well as Mr. A. Chakraborty, learned Government Advocate appearing for respondent Nos. 4 and 5.

The case of the petitioner in brief is that his father, namely, Late Paramanda Giri, died-in-harness on 17-10-2013 while serving as Plumber in the office of the Executive Engineer, PWD, PCC Division, Dispur. The petitioner, on 28-11-2013, applied for appointment on compassionate ground. As his case was not considered by the District Level Committee (DLC) for considerable period of time, the petitioner approached this Court by filing WP(C) No. 4299/2022, which was disposed of by order dated 28-06-2022 directing the Executive Engineer, Public Works Department, PCC Division, Dispur, to place the application of the petitioner for compassionate appointment before the next available DLC of Kamrup (M) with further direction that the DLC may pass any reasoned order thereof as may be permissible under the law. Thereafter, the case of the petitioner was considered by the DLC in its meeting on 26-09-2022 and recommended the case of the petitioner for Grade-III (Sectional Assistant) post. Thereafter, the State Level Committee (SLC), in its meeting held on 06-12-2023, considered the case of the petitioner. The SLC observed that the petitioner's father died prior to the issuance of the Office Memorandum dated 01-06-2015,

and, therefore, the Office Memorandum dated 02-03-2009 and order dated 20-12-2012 prevalent at the time of death of the father of the petitioner would be applicable and in the said Office Memorandum, there is no provision for seeking vacancy from other department.

On consideration of the observation made by the SLC in its meeting held on 06-12-2023 it appears that the consideration of the case of the petitioner was not in terms of the settled position of law.

In the case of **N.C. Santosh vs. State of Karnataka and Others**, reported in **(2020) 7 SCC 617**, particularly in paragraph 19, it has been held that the law governing compassionate appointment is that the norms prevailing on the date of consideration of the application should be the basis for consideration of the claim for compassionate appointment. Therefore, as the case of the petitioner was considered by the SLC in its meeting held on 06-12-2023, the consideration of the case of the petitioner should have been on the basis of the prevailing Office Memorandum, in force i.e., Office Memorandum dated 01-06-2015. Accordingly, the minutes of the SLC dated 06-12-2023 is set aside and quashed insofar as the petitioner is concerned.

The matter is, now, remanded to the State Level Committee to reconsider the case of the petitioner in its next immediate sitting in term of the Office Memorandum dated 01-06-2015.

With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant