

GAHC010084342024



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

Case No. : WP(C)/2334/2024

GWMWTHAO BASUMATARY
S/O- LATE PHUKAN BASUMATARY, R/O- NORTH NARAYANPUR, P.O.
PALTAN BAZAR, KACHUGAON, DIST. KOKRAJHAR, ASSAM, PIN- 783360.

VERSUS

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

2:THE STATE LEVEL SELECTION COMMITTEE
FOR APPOINTMENT ON COMPASSIONATE GROUND REP. BY ITS
CHAIRMAN
THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-6.

3:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
GHY-37.

5:THE DISTRICT LEVEL COMMITTEE
DHUBRI FOR APPOINTMENT ON COMPASSIONATE GROUND
REP. BY THE DISTRICT COMMISSIONER

DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN- 783301.

6:THE DISTRICT COMMISSIONER
DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN- 783301.

7:THE CHIEF EXECUTIVE OFFICER
ZILLA PARISHAD
DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN- 783301

Advocate for the Petitioner : MR. M ISLAM, MS A KHATUN

Advocate for the Respondent : GA, ASSAM, SC, P AND R.D.

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 09.08.2024

Heard Mr. M. Islam, learned counsel for the petitioner. Also heard Mr. CKS Barua, learned Govt. Advocate appearing for the respondent Nos. 1,2,5 & 6 and Mr. P. Handique, learned S.C. for the P&RD for the respondent Nos. 3 & 4.

2. By this application under Article 226 of the Constitution of India, the petitioner seeks for appointment on compassionate ground against the post vacated by his deceased father or in any suitable post under the department.

3. The case of the petitioner is that his father Late Phukan Basumatary who was serving as Tax Collector (Grade-III post) on regular basis under the Zilla Parishad, Dhubri under the Department of Panchayat and Rural

Development, Government of Assam since 11.07.1991 died in harness on 29.08.2015. His late father is survived by his wife, a daughter (minor) and the petitioner (son).

4. It is submitted that the father of the petitioner was the sole bread earner of the family; and on his demise, all the responsibilities to look after his mother and sister fell upon the shoulder of the petitioner. Under the circumstances, the petitioner having no other means of livelihood had submitted a representation dated 15.10.2015 before the Chief Executive Officer, Zilla Parishad, Dhubri in a prescribed format seeking his appointment in the department on compassionate ground against the vacancy created due to the death of his deceased father or any vacant post for which he may be qualified. Along with his representation, the petitioner has also annexed all his educational qualification certificates with a view to show that he is capable of performing any duty of Group-C and D post if appointed.

5. The said application of the petitioner was forwarded to the Commissioner of P&RD, Assam and in turn it was further forwarded to the Deputy Commissioner, Dhubri requesting to place the same before the District Level Committee, Dhubri (for short DLC, Dhubri). Accordingly, the case of the petitioner was placed before the Meeting of District Level Committee for Appointment on Compassionate Ground held on 13.11.2017 at Dhubri for consideration.

6. The learned counsel for the respondent while submitting that the DLC, Dhubri has recommended the case of the petitioner for appointment to the post of Gr. IV and forwarded to the Commissioner, P&RD, Dept, Guwahati (Respondent No.4) for taking necessary action has placed a copy of the minute of meeting of DLC, Dhubri with regard to the petitioner. The said document is taken on record and marked as document-X. the relevant portion with regard to

the case of the petitioner is reproduced herein below: -

“The Department has submitted 1 (One) proposal for the post of Gr. IV vide Annexure XIX.

“The Committee has examined the proposal in respect of SI.No. 1. Gwmwthao Basumatary, S/o. Late Phukan Basumatary, and found that the applicant is eligible as per his qualification and validity period of application. But the Department did not mention the cadre strength, vacancy position and date of Birth & Superannuation of deceased Govt. Servant in the format. Therefore, the DLC recommended the applicant for the post of Gr. IV subject to the availability of vacancy and minimum balance of service for deceased Govt. servant should be left 03 years and instruct the CEO, Zila Parshad, Dhubri to forward the proposal to the Commissioner, P&RD Deptt, Guwahati for taking their necessary action”.

7. It is submitted that although the DLC, Dhubri on examination of the case of the petitioner who was No.1 in the list for appointment on compassionate ground found him eligible for appointment for the post of Gr.IV on compassionate ground and recommended his name for the post of Gr.IV and the same was forwarded to the Commissioner, P&RD, Department, at Guwahati for further necessary action way back in the year 2017, however, despite the clear vacancy existing in the department, the case of the petitioner has not yet been considered by the concerned authorities till date.

8. In view of the above fact, the learned counsel for the petitioner submits that since the case of the petitioner has already been recommended and it is pending consideration before the state respondents, he has a limited prayer at this stage to dispose of this writ petition with a direction to the concerned authority to consider the case of the petitioner for appointment of the petitioner in any suitable post on compassionate basis in terms of the above recommendation dated 13.11.2017 by stipulating time period.

9. Both Mr. CKS Baruah and Mr. Handique learned counsel appearing for the State respondents have also acceded to the prayer made by the learned counsel for the petitioner and submits that since the case of the petitioner has already been forwarded by the DLC, Dhubri, the case may be disposed of with a direction to the state respondent to examine the case of the petitioner and

consider for appointment on compassionate ground subject to the availability of vacancy.

10. Upon consideration of the fact and circumstances of the case and considering that the case of the petitioner being found eligible has already been recommended by the District Level Committee, Dhubri for his appointment on compassionate ground, and as agreed upon by the parties, this writ petition is disposed of with a direction to the respondent authorities to examine the case of the petitioner and consider for his appointment on compassionate ground taking into account the recommendation made by the DLC, Dhubri dated 13.11.2017 and in terms of the said minute within a period of 4 (four) months from the date of receipt of a certified copy of this order.

With the above observation and direction, this writ petition is disposed of.

JUDGE

Comparing Assistant