

GAHC010089672024



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

Case No. : WP(C)/2366/2024

RESMA SULTANA
D/O LATE ABDUL REZZEQUE
R/O VILL- BORIGAON
P.O. SOLMARI
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY), ASSAM, DISPUR,
GUWAHATI-781006

2:THE STATE LEVEL COMMITTEE (SLC)

REPRESENTED BY THE CHIEF SECRETARY- CUM- CHAIRMAN
STATE LEVEL COMMITTEE (SLC) FOR APPOINTMENT ON
COMPASSIONATE GROUND

DISPUR
GUWAHATI-781006

3:THE DISTRICT LEVEL COMMITTEE (DLC)
REPRESENTED BY THE DEPUTY COMMISSIONER
MORIGAON
MORIGAON
ASSAM
PIN- 782105

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)

MORIGAON

MORIGAON
ASSAM
PIN- 78210

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MR A HAWARI, MR. S U AHMED

Advocate for the Respondent : GA, ASSAM, SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 30.08.2024

Heard Mr. P. K. Roychoudhury, learned counsel for the petitioner. Also heard Mr. P. K. Bora, learned standing counsel, Elementary Education Department for the respondent Nos. 1 and 4 and Mr. G. Pegu, learned Govt. Advocate for the respondent Nos. 2 and 3.

2. The father of the petitioner late Abdul Razzaque while serving as a Grade-IV employee at Dandua M. E. Madrassa under DEEO Kapili in the district of Morigaon, died-in-harness on 09.05.2011. The petitioner being eligible for appointment on compassionate grounds accordingly made her application on 14.06.2011. As the petitioner was not informed about the status of her application with regard to her appointment on compassionate grounds, the petitioner made an RTI application on 14.02.2024. The District Elementary Education Officer and Public Information Officer thereafter by a Communication dated 28.02.2024 addressed to the petitioner enclosed a copy of the District Level Committee meeting which held its meeting on 18.07.2011. In the said meeting the District Level Committee rejected the case of the petitioner on the

ground that she was married.

3. Being aggrieved with the rejection the petitioner is before this Court by way of the present writ petition.

4. The learned counsel for the petitioner submits that this Court by the order dated 10.12.2015 passed in WP(C)/1652/2014 (*Smti. Nadini Kalita Vs. State of Assam and 4 Ors*) has already held that a married daughter or a married adopted daughter would be entitled to be considered for compassionate appointment under OM dated 02.03.2009 or OM dated 01.06.2015. It was also held that there was no impediment for appointment of a married daughter or a married adopted daughter on compassionate grounds as recommended by the DLC and SLC.

5. Mr. G. Pegu, learned Govt. Advocate submits that as the petitioner is approaching this Court late no relief can be granted to the petitioner.

6. After hearing the learned counsel for the parties and particularly, taking into consideration the issue of delay raised by the learned Govt. Advocate, this Court is of the considered opinion that as the RTI application made by the petitioner was replied only on 28.02.2024, the issue of delay does not arise in the present application.

7. In the case of *Smti. Nadini Kalita Vs. State of Assam and 4 Ors* passed in WP(C)/1652/2014 this Court by order dated 10.12.2015 has held as under:

“27. The net result of the above discussion would be that a married daughter or a married adopted daughter would be entitled to a consideration for compassionate appointment whether it is under the OM dated 02.03.2009 or under the present OM dated 01.06.2015.

28. That being the position, this Court finds no impediment for appointment of the petitioner on compassionate ground as recommended by the SLC. Consequently, respondent Nos.2 to 4 are directed to issue appointment letter to the petitioner within a period of 6 (six) weeks from the date of receipt of a certified copy of this order.

29. Writ petition is accordingly allowed. No cost.”

8. In view of the order dated 10.12.2015 passed in WP(C)/1652/2014, it is held that a married daughter cannot be denied appointment on compassionate grounds. Therefore, the matter is remanded back to the District Level Committee to have a reconsideration of the case of the petitioner keeping in mind the order dated 10.12.2015 passed in WP(C)/1652/2015. Let such consideration be made in the next immediate sitting of the DLC.

9. With the above observations and directions, this Writ Petition is disposed of.

JUDGE

Comparing Assistant