

GAHC010099732022



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

Case No. : WP(C)/3540/2022

ANIMA PATHAK
W/O LATE HARIPAD PATHAK, R/O VILL-GAJIA, P.O.-BARPETA, DIST-
BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVERNMENT OF
ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-6, ASSAM

2:THE PRINCIPAL SECRETARY
KOKRAJHAR
BTC

3:THE DIRECTOR
SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI-1
ASSAM

4:THE JOINT DIRECTOR
DIRECTORATE OF SOCIAL WELFARE
KOKRAJHAR
BTC

5:THE CHILD DEVELOPMENT PROJECT OFFICER
TAMULPUR ICDS PROJECT
TAMULPUR
DIST-BAKSA
BT

Advocate for the Petitioner : MR I AHMED

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 12/01/2024

Heard Mr. I. Ahmed, learned counsel for the writ petitioner. Also heard Mr. R. Dhar, learned Additional Senior Government Advocate, Assam, appearing for the respondent nos. 1 & 3 and Mr. S.R. Rabha, learned Standing Counsel, BTC, appearing for the respondent nos. 2, 4 & 5.

The husband of the petitioner, who was working as a Peon in the Social Welfare Department under the jurisdiction of the BTC authorities, died in harness on 27/02/2003. Thereafter, the petitioner had submitted an application seeking appointment on compassionate ground. However, since her application was not considered by the authorities, the petitioner has approached this Court by filing the instant writ petition, *inter alia*, contending that her application for appointment on compassionate ground has been arbitrarily declined.

By referring to the counter affidavit filed by the respondent no. 4, Mr. Rabha submits that the application of the petitioner was actually submitted on 26/09/2021, which was beyond the prescribed period for submission of such application. The respondent no. 4 has, however, admitted that although the petitioner had submitted her application seeking compassionate appointment on 04/12/2004, yet the same was not pursued by her. Subsequently, she had filed the application again on 26/09/2021.

Mr. Ahmed, learned counsel for the petitioner submits that the petitioner has been regularly communicating with the department pursuing her claim for appointment on compassionate ground and the delay in this case, if any, is not on account of any laches or negligence on her part.

After going through the materials on record, I find that although the husband of the petitioner

had died on 27/02/2003 and she had apparently submitted an application before the authorities on 04/12/2004 seeking appointment on compassionate ground, yet, the petitioner has approached this Court only in the year 2022 agitating her grievance in the matter by alleging that her application has been wrongfully declined. The fact remains that more than 19 years has since elapsed since the demise of the petitioner's husband. Therefore, the immediacy of the cause has been lost in this case several years back

appointments to be made on compassionate ground is not be treated as a matter of right but the same is actually a gesture by the State to support the family of the deceased employee on account of premature demise of the sole bread earner. If the petitioner could survive for 19 years on her own, than it is apparent that the element of compassion is clearly non-existent at this point of time. Moreover, the scheme for appointment on compassionate ground has also since been withdrawn by the Government. Under the circumstances, this Court is of the opinion that it is not a fit case where a Writ of Mandamus can be issued by this Court directing the respondents to consider her application for appointment on compassionate ground at this distant point of time.

The writ petition is, therefore, held to be devoid of any merit and the same is accordingly dismissed.

It is, however, made clear that this order would not come in the way of the petitioner in seeking any other remedy, including the prayer for payment of compassionate family pension, if such a prayer is otherwise maintainable under the law.

JUDGE

sukhamay

Comparing Assistant