

GAHC010147822024



2024:GAU-AS:9034

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

Case No. : WP(C)/3738/2024

NASRAT BEGUM LASKAR
D/O- LATE SAFAR ALI LASKAR,
R/O- VILLAGE AND P.O.- PURBO SONAPUR,
P.S. AND DISTRICT- HAILAKANDI, ASSAM.
PIN- 788155.

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH THE COMMISSIONER AND SECRETARY,
TO THE GOVERNMENT OF ASSAM,
SCHOOL EDUCATION (SECONDARY),
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE INSPECTOR OF SCHOOLS
HAILAKANDI DISTRICT CIRCLE
DISTRICT HAILAKANDI
ASSAM.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI
P.O. AND P.S.- HAILAKANDI

DISTRICT- HAILAKANDI
ASSAM.

5:THE DISTRICT LEVEL COMMITTEE FOR APPOINTMENT ON
COMPASSIONATE GROUND
REPRESENTED BY THE DEPUTY COMMISSIONER
HAILAKANDI

DISTRICT- HAILAKANDI
ASSAM

Advocate for the Petitioner : MS. S SEAL, MS. J CHETTRY,MS. S KANUNGOE

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

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

11-09-2024

Heard Ms. J Chettry, learned counsel for the petitioner and Ms. N M Sarma, learned Standing counsel, Education Department, Assam for the respondent Nos. 1 to 4. Also heard Mr. G Pegu, learned Government Advocate, Assam for the respondent No. 5.

2. It is contended by the petitioner that her father, Md. Safar Ali Laskar was serving as an Assistant Teacher in Algapur Public High School, District-Hailakandi, who died in harness on 18.04.1991 leaving behind his widow, i.e., her mother and four children including the petitioner, her elder brother and two younger brothers.

3. After passing her higher secondary examination in October, 2014 under the Assam Higher Secondary Education Council from Assam State Open School, she on 06.12.2014 submitted her application before the District Elementary Education Officer (DEEO), Hailakandi for her compassionate appointment.

4. The DEEO, Hailakandi placed her proposal before the District Level Committee (DLC) for compassionate appointment, Hailakandi in its meeting held on 05.10.2021.

- 5.** The said DLC for compassionate appointment, Hailakandi by its decision dated 05.10.2021 rejected the case of the petitioner for her compassionate appointment finding her age to be of 16 years as per the Next of Kin Certificate issued relating to the family members of late Md. Safar Ali Laskar, father of the petitioner.
- 6.** In the said meeting held on 05.10.2021, the DLC for compassionate appointment, Hailakandi also found that the petitioner submitted her application on 20.02.2001.
- 7.** Ms. Chettry, learned counsel for the petitioner submitted that the petitioner on 06.12.2014 after passing her higher secondary examination for the first time submitted her application for compassionate appointment before the DEEO, Hailakandi, which was duly received by the Office of the DEEO, Hailakandi on 06.12.2014 itself and in that regard the Office of the DEEO, Hailakandi issued an acknowledgment placed as Annexure-5 series to this petition.
- 8.** From her Admit Card issued by the Board of Secondary Education, Assam relating to her High School Leaving Certificate Examination, 2005, the petitioner placed that her date of birth is 30.06.1985. As such, at the time of filing her application for compassionate appointment on 06.12.2014, she was a major and above 18 years of age.
- 9.** The petitioner further submitted that in her application for compassionate appointment, she indicated her date of birth as 30.06.1985. As such, she submitted that the DLC for compassionate appointment, Hailakandi in its meeting held on 05.10.2021 committed illegality in considering her age as below 16 years, as communicated on 11.10.2021 by the Deputy Commissioner cum Chairman, District Level Committee for compassionate appointment, District-Hailakandi rejecting her case for compassionate appointment holding that she is not fit for recommendation to the State Level Committee for compassionate appointment.
- 10.** Hence, this writ petition.
- 11.** In the Admit Card issued to the petitioner by the SEBA in her HSLC Examination, 2005, her date of birth is seen as 30.06.1985. As such, she attained the age of 18 years in the year 2003 and she was above 29 years on the date of her application for compassionate appointment on 06.12.2014. But the DLC for compassionate appointment, Hailakandi on 05.10.2021 wrongly calculated her age on the basis of the Next of Kin Certificate without considering her school certificates and the relevant Admit Cards of High School Leaving Certificate Examination as well as Higher Secondary Examination.

12. Apparently, her date of birth in terms of her Admit Card of HSLC Examination, 2005 issued by the SEBA is 30.06.1985 and the petitioner at the age of above 29 years submitted her application for compassionate appointment. But considering the said date of birth, the petitioner was only 5 years 9 months 18 days at the time of death of her father and it is not the case of the petitioner that she immediately on attaining the age of 18 years had submitted her application for compassionate appointment, but she submitted her application for compassionate appointment only on 06.12.2014 at the age of above 29 years.

13. Petitioner did not explain any such reason for the delay in submitting her application for compassionate appointment.

14. Law is well settled that appointment on compassionate ground can be considered only for meeting the immediate unexpected hardships which is faced by the family by the reason of death of its bread earner. When an appointment is made on compassionate grounds, it should be kept confined only to the purpose it seeks to achieve, idea being not to provide for endless compassion.

15. The Hon'ble Apex Court have also settled the law that compassionate appointment is not a vested right and the same is relative to financial condition and hardship faced by the dependents of a deceased Government employee as a consequence of his death (*State of West Bengal -Vs- Debabrata Tiwari and Others., decided on 03.03.2023*).

16. In the case of *Faziron Nessa and Ors. -Vs.- State of Assam and Ors;* reported in 2010 (4) GLT 340, a Co-ordinate Bench of this Court considered and discussed the following judgments of the Hon'ble Apex Court –

(i) State Bank of India -Vs- Jaspal Kaur reported in [\(2007\) 9 SCC 571](#).

(ii) *Achyut Ranjan Das & Ors -Vs.- State of Assam and Ors;* reported in 2006(4) GLT 674.

(iii) State of Madhya Pradesh v. Ramesh Kumar Sharma reported in [AIR 1994 SC 845](#).

17. Since the petitioner immediately on attaining the age of 18 years did not submit her application for appointment on compassionate ground, but submitted the same only when she was above 29 years and since there cannot be any reservation of vacancy till such time the claimant becomes a major after numbers of years as being held by the Hon'ble Apex Court, the very basis of compassionate appointment to see that the family members get immediate relief

does not exist in the case in hand, as the father of the petitioner expired on 18.04.1991, whereas she submitted her application for compassionate appointment on 06.12.2014.

18. Finding no merit with regard to the claim of the petitioner for her compassionate appointment under the die-in-harness scheme, this writ petition, for the reasons above, stands dismissed.

JUDGE

Comparing Assistant