

GAHC010160372024



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

Case No. : WA/273/2024

JUSHNA DEORI
D/O- LATE NIRON SING DEURI VILL- SANKARPUR, P.O.- MADHUPUR B.O.,
P.S.- NARAYANPUR, DIST. NORTH LAKHIMPUR, ASSAM, PIN- 784165.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, GENERAL ADMINISTRATION (B) DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE DISTRICT COMMISSIONER
LAKHIMPUR
PIN- 787001.

3:THE EXECUTIVE ENGINEER
DHAKUAKHANA DIVISION (IRRIGATION)
DHAKUAKHANA
LAKHIMPUR

PIN- 784164

Advocate for the Petitioner : MS. G BORAH,

Advocate for the Respondent : GA, ASSAM, SC, IRRIGATION

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

16.08.2024

(Vijay Bishnoi, CJ)

This Writ Appeal is filed by the appellant being aggrieved with the order dated 15.07.2024 passed by the learned Single Judge in WP(C) No.395/2024.

2. The appellant has approached the writ Court with a prayer to issue a direction to the respondent State to provide her appointment on compassionate ground. The father of the appellant died –in-harness on 04.08.2016 while working as Chowkidar in the office of the Executive Engineer, Dhakuakhana Division (Irrigation). The appellant had filed an application for compassionate appointment before the respondent on 04.01.2017 i.e. admittedly after the period of limitation as prescribed in the various orders issued by the State Government. When her application was not considered, she approached Hon'ble the Chief Minister and the guardian Minister and as per their directions the application was taken into consideration by the District Level Committee. The District Level Committee had, however, rejected the application of the appellant treating it time barred in its meeting dated 07.07.2023. Against the said decision the appellant had filed the writ petition.

3. The learned Single Judge taking into consideration the said facts and also taking into consideration the observations made by the Hon'ble Supreme Court in the case of **State of West Bengal vs. Debabrata Tiwari, Civil Appeal Nos.8842-8855 of 2022, decided on 03.03.2023** has dismissed the writ petition filed by the appellant.

4. The learned counsel for the appellant has submitted that looking into the exceptional circumstances in the case of the appellant, her application seeking compassionate appointment ought not to be rejected by the State authorities.

It is contended that the learned Single Judge has not taken into consideration those exceptional circumstances and has dismissed the writ petition filed by the appellant illegally. The learned counsel has submitted that though in **Debabrata Tiwari** (supra) the Hon'ble Supreme Court has held that delay of several years either on account of the applicant or the authorities concerned is not the sole factor which is to be taken into consideration and the expiry of long period after the death of a Government employee is also to be taken into consideration for the purpose that if the dependents of the Government employees have survived for such long period then the requirement of compassionate appointment is diluted. However, she has submitted that recently the Hon'ble Supreme Court in the case of **Govinda Janardan Gaikwad Vs. State of Maharashtra and others, Civil Appeal No.7489/2023, decided on 06.11.2023** has observed that considering the concept of welfare State the delay in applying for compassionate appointment cannot be a ground for denying the relief to a suitable person. The learned counsel for the appellant has, therefore, submitted that the impugned order be set aside and the writ petition filed by the appellant be ordered to be allowed and the relief prayed for in the said writ petition be granted.

5. Having heard the learned counsel for the appellant and after going through the materials available on record, we are of the view that in the facts and circumstances of the case, the learned Single Judge has not committed any illegality in dismissing the writ petition. It is true that in **Govinda Janardan Gaikwad** (supra) the Hon'ble Supreme Court has granted relief to a person who had approached for compassionate appointment after a delay but the facts of the said case are not applicable in the present case. Hence, we do not find

any merit in this appeal for interference. The Writ Appeal is, therefore, dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant