

GAHC010187452023



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

Case No. : WP(C)/4879/2023

MAHESH KUMAR BORO
S/O- LATE PRANESWAR BORO, R/O- HANGMA CHAPORI, SIMEN CHAPORI,
DHEMAJI, DIST. DHEMAJI, ASSAM, PIN- 787061.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR
GHY-6.

3:THE DISTRICT LEVEL COMMITTEE (DLC)

REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
DHEMAJI
P.O. AND DIST. DHEMAJI
ASSAM
PIN- 787057.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DHEMAJI DISTRICT
DHEMAJI
P.O. AND DIST. DHEMAJI
ASSAM
PIN- 787057

Advocate for the Petitioner : MR. D BHUYAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 25.01.2024

Heard Mr. D. Bhuyan, learned counsel for the petitioner. Also heard Mr. P. Saikia, learned Government Advocate representing the respondents no. 1 & 3 and Mr. A. Phukan, learned counsel for the respondents no. 2 & 4.

In terms of the order passed in this proceeding, Mr. P. Saikia, learned Government Advocate has produced instructions, which reveals that the case of the petitioner was considered by the District Level Committee and the same was rejected on account of the fact that the applications for appointment on compassionate grounds were not filed within the time limit prescribed.

The father of the petitioner, Mr. Praneswar Boro, while serving as a Teacher in S. B. Boro M.E. School had died in harness on 17.07.2016. It is the projected case of the petitioner that in pursuance to the death of his father, he had on 20.05.2017, submitted an application before the District Elementary Education Officer, Dhemaji praying for appointment on compassionate ground. The said application not being considered, the petitioner had again on 23.02.2022 preferred a representation before the respondent authorities for consideration of his case. The consideration as

required not being done, the present proceeding is instituted.

It is reflected from the instructions produced by Mr. P. Saikia, learned Government Advocate that the application as purportedly submitted by the petitioner on 20.05.2017, is not available on record and it was concluded by the District Elementary Education Officer, Dhemaji, vide a communication dated 30.10.2023 made before the District Commissioner, Dhemaji that no such application was submitted by the petitioner. Further, it is seen that the case of the petitioner was also placed before the District Level Committee and the said committee on consideration of the matter had rejected his case as a fresh applicant inasmuch as the application that was placed for consideration was of 16.11.2022. The said decision of the District Level Committee was communicated to the concerned authorities by the Deputy Commissioner, Dhemaji, vide his speaking order dated 30.12.2022.

The death of the father having occasioned on 17.07.2016 and the case of the petitioner in terms of the application submitted by him having been considered by the duly constituted District Scrutiny Committee and the same upon consideration having been rejected, there arises no further occasion to issue any further direction to the respondent authorities to have the case of the petitioner again considered for appointment on compassionate ground. More so, when the respondent authorities dispute the position that the petitioner had submitted his application praying for appointment on compassionate grounds within the time limit prescribed for the same.

The father of the petitioner had expired on 17.07.2016 and by now around 7 years have passed and the family of the petitioner having sustained for such a long period of time, in my considered view there is no necessity as

of now to issue any direction to the respondent authorities to consider the case of the petitioner for appointment on compassionate ground.

The issues arising herein is covered by the recent decision of the Hon'ble Apex Court rendered in the case of *State of W.B. v. Debabrata Tiwari & ors.*[reported in (2023) SCC Online SC 219].

Applying the ratio as contained in the decision of the Debabrata Tiwari(supra) to the facts of the present case, it is found that after the purported submission of the application by the petitioner, there is nothing on record to show that the petitioner was diligently pursuing the matter with the authorities and/or had approached this Court on the failure on the part of the authorities to consider his case for appointment on compassionate ground. Accordingly, the case of the petitioner does not merit any consideration for appointment on compassionate ground and the case cannot be now directed to be considered by the respondents. More so, when the very date on which the petitioner submitted his application praying for appointment on compassionate grounds is disputed by the respondent authorities.

As noticed by the Hon'ble Apex Court in Debabrata Tiwari (supra), the operation of a policy/scheme for compassionate appointment is founded on consideration of immediacy, which admittedly is not present in this case as on date.

In view of the conclusions reached hereinabove, the contentions raised by the petitioner does not merit acceptance.

The writ petition is without any merits and accordingly, it stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant