

GAHC010216452023



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

Case No. : WP(C)/5761/2023

SMTI. MAYURAKSHI KAKATI
D/O LATE KHAGEN KAKATI, R/O VILL-BAKARIGAON, WARD NO. 4, P.O.
AND P.S.-MORIGAON, DIST-MORIGAON, ASSAM, PRESENT ADD- C/O MR
SURESH PATHAK, R/O H NO-9, DOWNTOWN MILIJULI PATH, MATHURA
NAGAR, P.O.-ASSAM SACHIBALAY, P.S.-DISPUR, DIST-KAMRUP (M),
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-6 CUM THE CHAIRMAN, STATE LEVEL COMMITTEE

2:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM

3:THE TREASURY OFFICER
MORIGAON TREASURY
ASSA

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27.06.2024

Heard Mr. P.J. Saikia, learned counsel for the petitioner. Also heard Mr.

R. Dhar, learned Additional Senior Govt. Advocate for the respondents.

2. The case of the petitioner is that her father had died-in-harness on 28.01.2024. At the time of death, he was working under the establishment of the Treasury Officer, Morigaon as Junior Accounts Assistant. The petitioner had applied for appointment on compassionate ground on 30.03.2017. Her case was placed before the DLC and the DLC in its meeting held on 22.01.2022 had rejected the candidature of the petitioner on the ground that her mother is a Govt. employee.

3. The learned counsel for the petitioner has submitted that the petitioner has been abandoned by her mother, for which she has been compelled to file a complaint petition for maintenance under Section 125 Cr.P.C. and accordingly, it is submitted that the petitioner would be entitled for appointment on compassionate ground.

4. It is not in dispute that the mother of the petitioner is a Govt. servant. Therefore, the petitioner would not be entitled for consideration for appointment on compassionate ground despite the projection made by the petitioner that her mother has abandoned her. Moreover, in the case of *State of West Bengal. Vs. Debabrata Tiwari*, AIR 2023 SC 1467 : (2023) 0 Supreme (SC) 191, the Supreme Court of India has held that the inordinate delay even in part of the State to consider the application would make the petitioner disentitle for consideration for appointment on compassionate ground.

5. The observations made in paragraph 7.4 and 7.5 in the case of *Debabrata Tiwari (supra)* are quoted below:

“7.4. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased,

is the primary consideration that ought to guide the authorities' decision in the matter.

7.5. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee."

6. As the petitioner had applied for appointment on compassionate ground on 30.03.2017 and DLC had rejected the candidature of the petitioner on the ground that her mother is a Govt. employee, the petitioner would not be entitled for consideration for appointment on compassionate ground.

7. Accordingly, this writ petition is found without any merit and the same is dismissed.

JUDGE

Comparing Assistant