

GAHC010216812023



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

Case No. : WP(C)/5703/2023

FIRUJA BEGUM @ FIRUZA BEGUM
W/O- LATE TUNTUN ALI, RESIDENT OF DHING TOWN, P.S.- DHING, P.O.-
DHING, DISTRICT- NAGAON, ASSAM, PIN- 782123

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
P.W.D. (ROADS), DISPUR, GUWAHATI-06

2:THE DIRECTOR OF P.W.D. (ROADS)
ASSAM
GUWAHATI-06

3:THE SUPERINTENDENT ENGINEER
P.W.D. (ROADS)
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001

4:THE EXECUTIVE ENGINEER
P.W.D. BATADRABA DHING AND RAHA TERRITORIAL ROAD DIVISION
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001

5:THE DISTRICT LEVEL SCRUTINY COMMITTEE
FOR COMPASSIONATE APPOINTMENT
NAGAON
REPRESENTED BY THE DEPUTY COMMISSIONER

NAGAON
ASSAM
PIN- 782001

6:THE DEPUTY COMMISSIONER
NAGAON
DIST.- NAGAON
ASSAM
PIN- 78200

Advocate for the Petitioner : MR M H AHMED, MR M RAHMAN,MR. M DASGUPTA,I
AMIN,MR A HUSSAIN

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

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 12-09-2024

Heard Mr. M.H. Ahmed, learned counsel for the writ petitioner. also heard Mr. R. Dhar, learned standing counsel, PWD, Assam appearing for the respondent Nos. 1 to 4 and Mr. J.K. Goswami, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondent Nos. 5 and 6.

The case of the writ petitioner, in brief, is that her husband who was serving as Gr-IV employee in the establishment of the Executive Engineer, PWD, Batadrawa, Dhing and Raha Territorial Road Division, Nagaon, died-in-harness on 21-10-2006. Due to the loss of the sole bread earner of the family, the petitioner, being the widow, had submitted an application on 14-11-2006 seeking appointment on compassionate ground as per the scheme framed by the Govt. of Assam. However, since no action was taken on her application, the petitioner had submitted a representation dated 16-11-2020 to consider

her case for compassionate appointment. Her application was thereafter placed before the meeting of the District Level Committee (DLC), Nagaon. However, till date no decision has been taken in the matter. Hence, this writ petition.

By referring to a decision of the Supreme Court rendered in the case of State of ***West Bengal Vs. Debabrata Tiwari & Ors.*** reported in ***2023 SCC OnLine SC 219***, the learned departmental counsel have submitted that this case is hit by prolonged delay and hence, the petitioner is not entitled to any relief. After the lapse of nearly 18 years since the death of the employee, submits Mr. Goswami, the question of considering the application submitted by the petitioner for compassionate appointment cannot arise at this point of time.

After going through the materials available on record, I find that although the petitioner had submitted the application seeking compassionate appointment on 14-11-2006, yet, there is no material available on record to show that she was diligently pursuing the matter any time soon thereafter. It was only on 16-12-2020 that a representation was submitted by the writ petitioner pursuing her application for compassionate appointment. It appears that before submitting the representation dated 16-12-2020, for a period of nearly 14 years, the petitioner had remained silent and therefore, had slept over her right, if any, to be considered for appointment on compassionate ground. The learned counsel for the writ petitioner has, however, argued that his client was regularly pursuing the matter with the authorities by making verbal representation .

It is trite that the scheme framed by the Government providing for appointment on

compassionate ground to the family members of a deceased Govt. employees who had died-in-harness is aimed at providing immediate pecuniary relief to the family members of the deceased, having suffered the loss of the sole bread earner. The scheme does not guarantee employment as a matter of right nor does it create any indefeasible right on the family members of the deceased to be appointed in a Government job. Moreover, the scheme framed by the Govt. of Assam for compassionate appointment has since been withdrawn. As such, this Court is of the opinion that there is no scope for granting any relief to the writ petitioner in the facts and circumstances of the present case.

In the case of ***Debabrata Tiwari (Supra)***, the Hon'ble Supreme Court, while dealing with an issue of similar nature, has observed that due to prolong delay in pursuing the application for compassionate appointment, since the immediacy is diluted or lost and the financial circumstances of the family members of the deceased might also have changed, it will not be proper to grant compassionate appointment in such cases by considering it a matter of inheritance based on a line of succession which is contrary to the Constitution.

Having regard to the facts and circumstances of the case, even if it is presumed that the petitioner made some effort to pursue her claim, no direction for issuing appointment on compassionate ground to the writ petitioner can be issued at this point of time, i.e. after 18 years since the death of her husband since question of immediacy is lost in the matter and the scheme for appointment on compassionate ground has also been discontinued by the Govt. of Assam.

Under the circumstances, this Court is of the opinion that there is no merit in this

writ petition and the same is accordingly dismissed.

JUDGE

GS

Comparing Assistant