

GAHC010218872019



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

**Case No. : WP(C)/6755/2019**

RAJU GOGOI  
S/O. LT. THUNUKA GOGOI, VILL. RAJABARI, P.O. PULUNGA, P.S. CHABUA,  
DIST. DIBRUGARH, ASSAM, PIN-786184.

VERSUS

THE STATE OF ASSAM AND 6 ORS.  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, ELEMENTARY  
EDUCATION DEPTT., DISPUR, GUWAHATI, P.O. ASSAM SACHIVALYA, P.S.  
DISPUR, DIST. KAMRUP (M), ASSAM, PIN-781006.

2:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM THE CHAIRMAN  
OF THE STATE LEVEL COMMITTEE  
ASSAM  
DISPUR  
P.O. ASSAM SACHIVALYA  
P.S. DISPUR  
DIST. KAMRUP (M)  
ASSAM  
PIN-781006.

3:THE DY. COMMISSIONER  
DIBRUGARAH CUM THE CHAIRMAN OF THE DIST. LEVEL COMMITTEE  
DIBRUGARH  
P.O. DIBRUGRAH CHARIALI  
P.S. DIBRUGARH CHARIALI  
DIST. DIBRUGRAH  
ASSAM  
PIN-786001.

4:THE DIRECTOR  
ELEMENTARY EDUCATION ASSAM  
KAHILIPARA

GUWAHATI  
P.O. KAHILIPARA  
P.S. DISPUR  
DIST. KAMRUP (M)  
ASSAM  
PIN-781019.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

DIBRUGARH  
P.O. C.I. BUILDING  
P.S. MILANNAGAR  
DIST. DIBRUGARH  
ASSAM  
PIN-786003.

6:DURGESAR SONOWAL  
S/O. LT. DEVESWAR SONOWAL  
VILL. NO.1 NOWJAN GAON  
P.O. KUTUHA  
P.S. KUTUAH  
DIST. DIBRUGARH  
ASSAM  
PIN-786166.

7:SMT. NARAPRAVA SONOWAL  
W/O. SRI TULARAM SONOWAL  
VILL. SOLOGURI  
P.O. SOLOGURI  
P.S. MORAN  
DIST. DIBRUGARH  
ASSAM  
PIN-786613

**Advocate for the Petitioner** : MR. B P SINHA, MR. S K SINHA

**Advocate for the Respondent** : GA, ASSAM, SC, ELEM. EDU,MR. J HATIMURIA,MR. M KALITA,MR. P J SAIKIA

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**18.09.2024.**

Heard Shri SK Sinha, learned counsel for the petitioner. Also heard Shri B Deuri,

learned Junior Govt. Advocate, Assam as well as Shri M Kalita, learned counsel for the respondent no. 7.

**2.** The claim is towards an appointment on compassionate ground.

**3.** As per the facts projected, the mother of the petitioner, Nirabala Gogoi was working in a Grade-IV post (Chowkidar) in the Chabua Pulunga MV School in the district of Dibrugarh. While in service, she had passed away on 19.02.2013 whereafter on 15.03.2013, the petitioner had submitted an application for appointment on compassionate ground.

**4.** It is the case of the petitioner that the District Level Committee (DLC) in its meeting held on 07.08.2013 had recommended the case of the petitioner. However, the State Level Committee (SLC) in its meeting held on 01.04.2014 had rejected the case of the petitioner by holding that there are other candidates who are senior to the petitioner.

**5.** Shri Sinha, learned counsel for the petitioner, at the outset, has informed this Court that he had earlier approached this Court by filing WP(C)/4666/2017 which, however, was dismissed on withdrawal with liberty on 20.06.2019 whereafter the present writ petition has been filed.

**6.** It is submitted that the rejection of the SLC is on irrelevant consideration as the aspect of seniority was not one of the relevant factors. He has submitted that as per Office Memorandum dated 01.06.2015, there is a provision for referring the cases to other Departments in case vacancies are not available.

**7.** Shri Deuri, learned State Counsel, Assam has, however, raised a preliminary

objection by submitting that the present claim cannot be considered at this stage as it would not be in consonance with the objective of the Scheme. It is submitted that the entire objective of the Scheme is to give immediate relief to the bereaved family who has lost the sole earning member, who was a Government servant. He has also referred to the decision of the Hon'ble Supreme Court in the case of ***State of West Bengal Vs. Debabrata Tiwari & Ors.***, reported in **AIR 2023 SC 1467**.

**8.** The rival contentions have been duly considered. The law relating to compassionate appointment is well settled. Such appointment is an exception to general mode/method of recruitment wherein an exception is carved out to give immediate succour to a bereaved family which has lost the sole breadwinner who was a government servant. The essence of such appointment is of immediate nature and the said essence would be lost by efflux of time.

**9.** In the instant case, it is not in dispute that the death of the government employee was in the year 2013 and in the meantime, almost a decade has passed. There is no acceptable or cogent reasons explaining the delay for the period from 2013 when the case of the petitioner was rejected by the DLC, Dibrugarh vide minutes of the meeting dated 07.08.2013. As on today, almost 10 years have passed and any direction towards consideration of the claim of the petitioner further would not be in sync with the claim of compassionate appointment. The Hon'ble Supreme Court in the case of ***Debabrata Tiwari*** (*supra*) has laid down as follows:

*“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:*

*(i) That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables*

*appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e. to enable the family of the deceased to get over the sudden financial crisis.*

*(ii) Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*

*(iii) Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.*

*(iv) That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.*

*(v) In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members together with the income from any other source.”*

**10.** This Court has noticed that on the aspect of delay, the Hon’ble Supreme Court in the aforesaid case while examining the said aspect from the context of the scheme has also laid down that even if the delay is on account of the authorities, the sense of immediacy is diluted and lost. The relevant part as observed in paragraph 7.5 of the aforesaid judgment is extracted herein below:-

*“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."*

**11.** In view of the aforesaid discussions and the law laid down by the Hon'ble Supreme Court in the case of **Debabrata Tiwari** (*supra*), no case for interference is made out and accordingly, the writ petition is dismissed.

**JUDGE**

**Comparing Assistant**