

GAHC010234282023



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

Case No. : WA/427/2023

UJJAL GOGOI
S/O LATE CHINMOY GOGOI, R/O VILL-THURAJAN GRANT GAON, P.O.-
MORANGI, P.S.-GOLAGHAT, DIST-GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, P.W.D (ESTABLISHMENT-B) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER
P.W.D. (ROADS) ASSAM
CHANDMARI
GUWAHATI-3.

3:THE EXECUTIVE ENGINEER
P.W.D. GOLAGHAT RURAL ROAD DIVISION
GOLAGHAT.

4:THE DEPUTY COMMISSIONER
GOLAGHAT
DIST.- GOLAGHAT
ASSAM.

5:THE DISTRICT LEVEL COMMITTEE
TO BE REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
GOLAGHAT
DIST.-GOLAGHAT
ASSAM.

6:THE STATE LEVEL COMMITTEE

TO BE REPRESENTED BY ITS CHAIRMAN CUM CHIEF SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : SC, PWD

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 21/02/2024
Suman Shyam, J

Heard Mr. M.A.I. Hussain, learned counsel for the appellant. We have also heard Mr. D. Nath, learned Standing Counsel, PWD, Assam, appearing for the respondent nos. 1, 2 & 3 and Ms. R.B. Bora, learned Government Advocate, Assam, representing the respondent nos. 4, 5 & 6.

This intra-court appeal is directed against the order dated 11/09/2023 passed by the learned Single Judge in WP(C) No. 5187/2023 dismissing the writ petition filed by the appellant primarily on the ground that due to delay in approaching this Court, the petitioner was not entitled to any relief.

The facts of the case, in a nutshell, are that the father of the petitioner, viz. Chinmoy Gogoi was working as a Section Assistant in the office of the Executive Engineer, PWD, Golaghat Rural Division. He died in harness on 31/03/2015. Having lost the sole bread earner of the family and in view of the scheme introduced by the Government permitting appointment on compassionate ground, the writ petitioner, being the son of the deceased

Government employee, had submitted application dated 09/06/2015 seeking appointment to the post of Section Assistant on compassionate ground. The post of Section Assistant is a Grade-III post and it appears that the minimum qualification required for appointment to the post of Section Assistant was HSSLC pass.

The application of the appellant was considered by the District Level Committee (DLC) of Golaghat in its meeting held on 16/11/2015 and the same was also recommended for consideration by the State Level Committee (SLC). However, the SLC upon consideration of the application of the petitioner, vide resolution adopted in its meeting held on 31/12/2018, had rejected the same on the ground that the petitioner was under qualified. Aggrieved by the said decision of the SLC, the petitioner had approached this Court by filing WP(C) 5187/2023, which was dismissed by the impugned order dated 11/09/2023.

By referring to the impugned order dated 11/09/2023, Mr. Hussain, learned counsel for the appellant has argued that the appellant has been non-suited by the learned Single Judge purely on the ground of delay in approaching the Court but the fact remains that the SLC had not communicated its decision adopted in the meeting held on 31/12/2018. According to the learned counsel, the appellant became aware about the said decision only in the year 2023 whereafter, he had immediately approached this Court by filing the writ petition. As such, this is not a case of un-explained, inordinate delay.

Mr. Nath, learned Standing Counsel, PWD, Assam, on the other hand, has argued that the petitioner did not have the requisite qualification to hold the post applied for and, therefore, there is no infirmity in the impugned decision of the SLC. The learned Standing Counsel has further argued that the scheme for appointment on compassionate ground has

been withdrawn by the Government with effect from 01/04/2017 and, therefore, having regard to the peculiar facts and circumstances of the case, there is no scope for considering the prayer of the petitioner at this point of time.

We have considered the submissions advanced by learned counsel for the parties and have also carefully gone through the materials available on record.

As noticed above, the prayer made by the appellant in the writ petition was declined by the learned Single Judge on the ground of delay in approaching the Court. However, it is to be noted herein that there was some delay also on the part of the SLC in considering the application submitted by the appellant/writ petitioner, inasmuch as, the application dated 19/06/2015 was considered by the SLC only on 31/12/2018 i.e. after the expiry of more than 3 (three) years from the date of submission of the same.

Be that as it may, we are cognizant of the fact that the petitioner had applied for the post of Section Assistant (Grade-III). The SLC had rejected his application on the ground that the applicant did not have the requisite qualification.

In order to circumvent the opinion of the SLC, Mr. Hussain has argued that the writ appellant was an HSSLC pass candidate but his HSSLC pass certificate got stolen, as a result of which, he could not produce the same. There is nothing on record to substantiate such argument of the appellant's counsel. Rather, we find that the appellant has relied upon only his HSLC pass certificate in support of his educational qualification, which evidently fell short of the qualification required for appointment in a Grade-III post. Such argument of the appellant's counsel also cannot be countenance on account of the fact that there is nothing on record to support his contention that the HSSLC certificate of the appellant was ever

stolen. There is also not even an iota of evidence to show that the appellant did have the requisite educational qualification for being appointed in a Grade-III post. As such, we do not find any infirmity in the decision of the SLC.

Under such circumstances, we do not find any justifiable ground to interfere with the impugned order dated 11/09/2023 passed by the learned Single Judge. Consequently, this writ appeal is held to be devoid of any merit.

The same is accordingly dismissed.

There would be no order as to costs.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant