

GAHC010292122023



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

Case No. : WP(C)/7598/2023

ASHIK AZIZ
S/O LATE ALTAB HUSSAIN
R/O VILL AND P.O. GONDHMOW, P.S. SUALKUCHI,
DIST. KAMRUP, ASSAM PIN-781103

VERSUS

1: THE STATE OF ASSAM AND 4 ORS TO BE REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SECONDARY EDUCATION, DISPUR, GUWAHATI-781006,
ASSAM

2: THE DEPUTY COMMISSIONER
KAMRUP AT AMINGAON ASSAM PIN-781031.

3: THE DISTRICT LEVEL COMMITTEE FOR APPOINTMENT ON
COMPASSIONATE GROUND KAMRUP TO BE REPRESENTED BY ITS
CHAIRMAN CUM DEPUTY COMMISSIONER KAMRUP DIST. KAMRUP
ASSAM PIN-781031

4: THE DIRECTOR OF SECONDARY EDUCATION
GOVERNMENT OF ASSAM KAHILIPARA GUWAHATI ASSAM PIN-781019

5: THE INSPECTOR OF SCHOOLS KDC
AMINGAON DIST. KAMRUP ASSAM PIN-78103

Advocate for the Petitioner : MR. M K SHARMA

Advocate for the Respondent : SC, SEC. EDU.

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

ORDER

Date : 10-01-2024

Heard Mr. M.K. Sharma, learned counsel for the petitioner. Also heard Mr. S.M.T. Chistie, learned standing counsel, Education (Secondary) Department, representing the respondent Nos.1, 4 & 5 and Mrs. D.D. Barman, learned Additional Senior Government Advocate, Assam, representing the respondent Nos.2 & 3.

The father of the petitioner Late Altab Hussain while working as an Assistant Teacher in Nowgong Chariali High Madrassa died in harness on 31.05.2011. It is the projected case of the petitioner that after the death of his father, the petitioner had submitted an application on 13.08.2011 praying for appointment on compassionate ground. The petitioner had contended that his case on account of the different stands taken by the respondent authorities may not have received a fair consideration by the District Level Committee and accordingly, the present writ petition came to be filed.

On 03.01.2024, this Court had required Mrs. D.D. Barman to place on record the minutes of the District Level Committee meetings, wherein the petitioner's case was considered.

Accordingly, today Mrs. Barman has placed on record the minutes of the meetings dated 11.11.2011; 23.03.2012 and also 23.11.2017.

On perusal of the minutes of the meeting of the District Level Committee on the said dates, it is revealed that the case of the petitioner was duly placed and considered by the said Committee but his case was not recommended for appointment on compassionate ground in its meeting held on 11.11.2011 and also 27.03.2012. In the meeting of the District Level Committee held on 23.11.2017, the case of the petitioner was again considered but, however, on noticing the fact

that the case of the petitioner was considered twice by the District Level Committee, i.e. on 11.11.2011 and 27.03.2011 and rejected due to want of vacancy, the case of the petitioner was rejected on account of the provisions in Paragraph 10 of the Government Office Memorandum dated 01.06.2015.

In the said view of the matter, the case of the petitioner having been duly considered by the competent body and his case not having been recommended only on the ground of want of vacancy, this Court finds no error in the conclusions arrived at by the District Level Committee in its meetings held on 11.11.2011; 27.03.2012 and 23.11.2017. The petitioner's father having expired on 31.05.2011 and the family having sustained for the last around 12(twelve) years without a compassionate appointment, it is held that the right of the petitioner for being considered on compassionate ground does not subsists any further and accordingly, no direction can be issued to the respondent authorities for having the case of the petitioner considered for appointment on compassionate ground. In this connection, reference may be made to the decision of the Hon'ble Apex Court in the case of ***State of W.B. -Vs- Debabrata Tiwari & Ors.***, reported in ***(2023) SCC Online SC 219***.

In view of the said position, the writ petition is without merit and accordingly, the same stands dismissed.

The instructions placed on record by Mrs. D.D. Barman, learned Additional Senior Government Advocate, Assam, is made a part of the record and marked as "X".

JUDGE

Comparing Assistant