

GAHC030002962023



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

Case No. : WP(C)/66/2023

Sh. Makbul Hussain Choudhury
S/o Late MHA Choudhury (m. Hayad Ali Choudhury)
R/o Village- Badripur Part-IV, PO Badripur, District Cachar, Assam.

VERSUS

The State of Mizoram and 4 Ors.
r/b the Commissioner and Secretary to the Government of Mizoram, Home
Department, Room No.57, Basement 1, Building No. 1, Mizoram Secretariat, New
Capital Complex, Khatla, Aizawl, Mizoram.2:The Director General of Police
Mizoram Police H.Q.

3:The Screening Committee of Home Department

4:The Superintenden of Police

5:the Sub-Inspector
Vairengte Police Statio

Advocate for the Petitioner : Mr. F.A. Laskar

Advocate for the Respondent : Addl. AG/GA, Mizoram

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

JUDGEMENT

Date : 14-02-2024

Heard Mr. N.H. Barbhuiya, learned counsel for the petitioner, who appeared through Video Conferencing and also heard Mr. Samuel Vanlalhriata Chhangte, learned Additional Advocate General for the State respondents.

2. The instant writ petition is with regards to the claim of the petitioner for appointment under compassionate ground on the death of his father in harness.

3. The petitioner's case is that the father of the petitioner died in harness and the petitioner has claimed for compassionate appointment. The father of the petitioner was a Havildar under the Home Department who suddenly died on 10.07.2010 leaving behind his wife, 5 (five) daughters and the petitioner who was then a minor. The wife of the deceased Government servant, who is the mother of the petitioner had filed an application for compassionate appointment on 22.07.2010. However, the Government was silent about the application. The petitioner meanwhile passed HSLC examination and came of age. The mother of the petitioner then filed another representation dated 17.09.2019, seeking the appointment of the instant petitioner and thereafter filed several other representations. However, the respondents till date have not done anything except make a spot verification report on 25.02.2019.

4. The learned counsel for the petitioner submits that as per the revised Office Memorandum dated 25.10.2010, the authorities are required to consider the case of the applicant quickly. The learned counsel submits that the petitioner has the right to have his claim considered by the Screening Committee but despite the repeated representations, his case has not been placed before the Screening Committee till date.

5. Mr. Samuel Vanlalhriata Chhange, learned Additional Advocate General on the other hand submits that the application for compassionate appointment of the petitioner has been considered and the Government had approved in principle the appointment on compassionate ground for 304 posts. As such, the Screening Committee was constituted to consider the recommendation for appointment on compassionate ground from all the applications received. Spot verification was done to all the 1395 applications received. However, the Government could approve only 304 candidates and the rest of the 1091 applicants were not recommended for selection. The petitioner is also amongst the person not recommended.

6. The learned Additional Advocate General further submits that it is not mandatory to appoint all the applicants, who have done spot verification report

and that compassionate appointment is not the vested right which can be exercised at any time after the death of the Government servant. He further submits that the case of the petitioner was actually placed before the Screening Committee meeting held on 21.10.2019 after the spot verification was done but he was amongst the many others, who were not recommended by the Screening Committee for compassionate appointment. He further submits that there is only 5% quota for compassionate appointment and the selection for appointment was done with due care and diligent.

7. Mr. N.H. Barbhuiya, learned counsel for the petitioner in rebuttal submits that the State respondents have not enclosed a copy of the minutes of the meeting said to be held on 21.10.2019 and therefore, the petitioner has not been informed as to why his application for appointment on compassionate ground has not been considered favourably. He submits that this Court may issue a direction to the State respondents to consider the appointment of the petitioner on compassionate ground as per the existing Rules/law.

8. Having heard the submissions made by both the parties, this Court finds that the prayer of the petitioner in the writ petition is reproduced as under:-

“10. That this petition has been made bona fide to secure the ends

of justice. It is therefore most respectfully prayed that your Lordships would graciously be pleased to admit this petition, call for the record, issue a Rule calling upon the respondents to show cause as to why a writ in the nature of Mandamus/Certiorari or other appropriate writ should not be issued in directing the respondent authorities more particularly the Respondent No 3 to place and consider the claim of the petitioner before Screening Committee for appointment on compassionate ground in any post as per the eligibility of the petitioner within a specific time and after hearing the parties and/or direct the respondents to do the required steps for appointment of the petitioner under compassionate ground and on perusal of records Your Lordships would be pleased to make the Rule absolute and/or pass such further or other order or orders as Your Lordships may deem fit and proper.”

9. Thus, it is seen that the prayer of the petitioner is limited only for the case of the petitioner to be placed before the Screening Committee for appointment on compassionate ground in any post as per the eligibility of the petitioner. It is also seen that the State respondents had considered the application for the appointment of the petitioner and it was duly placed before the Screening Committee on 21.10.2019. However, his application for appointment on compassionate ground could not be considered and was rejected along with 1091 other applicants.

10. Thus, considering the nature of the limited prayer made by the petitioner, which is for placing his representation before the Screening Committee, which has been done by the respondent on 21.10.2019, this Court is constrained to dismiss the instant writ petition.

11. However, this dismissal shall not bar the petitioner to seek legal remedy if subsequently, it is discovered that his applications for compassionate appointment was rejected due to malafide reasons and not as per the prevailing O.M. for compassionate appointment.

12. WP(C) No. 66/2023 stands dismissed and disposed of.

JUDGE

Comparing Assistant