

GAHC020000912024



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

Case No. : WP(C)/32/2024

SHRI MERENJUNGBA
S/O LATE SHRI O IMYAPANGBA
P/R OF AKHOYA VILLAGE, MOKOKCHUNG, NAGALAND-798601

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT.OF
NAGALAND

2:THE COMMISSIONER AND SECRETARY
WORKS AND HOUSING DEPT.
NAGALAND KOHIMA

3:THE ENGINEER-IN-CHIEF
NPWD
NAGALAND KOHIMA

4:THE CHIEF ENGINEER
PWD (HOUSING)
NAGALAND KOHIM

Advocate for the Petitioner : SENTIYANGER

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 10.05.2024

Heard Mr. Sentianger, learned counsel for the petitioner and also heard Mr. Ajungli, learned Government Advocate on behalf of the State respondent Nos. 1 to 4.

2. By this application under Article 226 of the Constitution of India, the petitioner seeks for appointment on compassionate ground in any suitable post in terms of the Office Memorandum No.AR-8/8/78 dated 17.9.2015 and Addendum dated 9.4.2019.

3. The case of the petitioner is that his father namely Late O.Imyapangba who was serving as Sectional Assistant (Class-III Non Gazetted) in the PWD Changtongya Division Mokokchung died in harness on 28.10.2021 after serving the Department for 33 years, 7 months and 27 days.

4. It is submitted that the father of petitioner was sole bread earner of the family; and his demised, all the responsibilities to look after his mother fell upon the shoulder of the petitioner. Under the circumstances, the petitioner having no other means of livelihood had submitted a representation before the Chief Engineer, PWD (Housing) Nagaland, on 16.11.2021 seeking his appointment in the department on compassionate ground against the vacancy created due to the death of his deceased father. Along with his representation, the petitioner has also annexed his educational qualification certificates and the certificate of Diploma in Computer application and networking with a view

to show that he is capable of performing any duty of Group-C and D post if appointed. However, his prayer in the said representation was to appoint him in any available suitable post in the Department on compassionate ground.

5. It is submitted that the Government of Nagaland, P & AR Department (Administrative Reforms Branch) issues an Office Memorandum No.AR-8/8/78 dated 17.9.2015 on "Revised Compassionate Appointment Scheme for the State Government Employees who die in harness". As per the said scheme, compassionate appointment is to be made on to the post falling under the combined direct recruit quota of Group C and Group-D and such appointment can be done upto 50% of the vacancies during a year. However, despite the clear direction/condition provided in the said Office Memorandum dated 17.9.2015, the case of the petitioner has not yet been considered by the concerned authorities till date.

6. It is further submitted that in continuation of the Office Memorandum dated 17.09.2015, the Government of Nagaland had issued an Addendum dated 09.04.2019 inserting para 11 and 12 to the said Office Memorandum whereby, it is provided that the compassionate made in Group-C and Group-D post under the scheme shall be strictly in order of date of death and first preference shall always be given against those who have died earlier and who fulfills the eligibility criteria. Basing on the said Addendum, the Government has prepared a wait list on OM and compassionate applicants under NPWD Department wherein the name of the petitioner has been listed at Sl.No.70.

7. In the context of the above provision provided under the OM dated 17.09.2015 and Addendum dated 09.04.2019 and the compassionate applicants list, the learned counsel for the petitioner submits that he has a limited prayer at this stage to consider the case of the petitioner for appointment of the petitioner in any suitable post on compassionate basis in terms of the above Office Memorandum dated 17.09.2015 and the Addendum dated 09.04.2019.

8. Mr. Ajungli, learned Government Advocate appearing for the State respondents acceded to the prayer made by the learned counsel for the petitioner and submits that since the Government is maintaining a list for compassionate applicants prepared in consonance to the Office Memorandum and the Addendum stated above, the case of the petitioner shall be considered as and when his turn comes as per the compassionate applicant list.

9. Heard both the learned counsel for the parties. I have also considered the documents annexed by the parties including the OMs, the addendum and the compassionate applicants list maintained by the department.

10. In view of the statements made in the pleadings and the submissions of the learned counsel for the parties and as agreed to by the parties, this writ petition is disposed of with a direction to the respondent authorities to consider the case of the petitioner for appointment on compassionate ground in any suitable post in terms of the Office Memorandum dated 17.9.2015 and Addendum dated 09.04.2019 issued by the P &

AR Department and as per the wait list of the compassionate applicants maintained by the Government.

11. The writ petition stands dispose of in terms above.

**Sd/-
JUDGE**

Comparing Assistant