



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

Case No. : WP(C)/80/2023

SHRI. C. CHINGO KONYAK
CHI VILLAGE, MON, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
THROUGH THE CHIEF SECRETARY
TO THE GOVERNMENT OF NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND

PERSONNEL AND ADMINISTRATIVE REFORMS DEPARTMENT
NAGALAND
KOHIMA

3:THE COMMISSIONER

NAGALAND
KOHIMA

4:THE DEPUTY COMMISSIONER

MON
NAGALAN

Advocate for the Petitioner : KEKHRIESENULO

Advocate for the Respondent : GOVT ADV NL

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

27.06.2024

Heard Ms. H Zeliang, learned counsel for the petitioner and Ms. S Chang, learned State counsel appearing for all the respondents.

[2.] By filing this Writ Petition, the petitioner has sought for a direction to the respondent authorities concerned for appointing the petitioner on compassionate basis to any Group-C or Group-D post, in terms of the existing policy of the Government.

[3.] Brief facts of the case is that the services of the father of the petitioner was regularized as Grade-II Dobashi vide Order dated 26.06.1989. The father of the petitioner died in harness on 16.12.2018 and in terms of the existing policy of the State Government, the petitioner submitted his application for compassionate appointment before the Deputy Commissioner, Mon, Nagaland (respondent No. 4) dated *NIL* requesting for appointment on compassionate basis. The application of the petitioner alongwith all the requisite particulars and supporting documents were forwarded by the respondent No. 4 to the respondent No. 3 on 25.01.2019, by stating that all the requirement of the O.M dated 17.08.2015 has been fulfilled and that the application is recommended for necessary action. Despite forwarding such

application, the respondent authorities having failed to appoint the petitioner on compassionate basis, the petitioner is before this Court.

[4.] Ms. H Zeliang, learned counsel submits that the policy decision of the State Government for making compassionate appointment is contained in the O.M dated 17.09.2015 (Annexure-9) and the case of the petitioner is clearly covered by the said decision. She submits that after the petitioner filed the writ petition, the respondent No. 4 vide Communication dated 06.03.2024 has informed the petitioner that as per the incumbency list of vacant Dobashi post under the establishment of respondent No. 4, the name of the petitioner is at Serial No. 1. She, therefore, submits that the respondent authority concerned may be directed to consider the appointment of the petitioner on compassionate basis.

[5.] Ms. S Chang, learned State Counsel, on the other hand, submits that the incumbency list has been updated in view of the fact that there is another applicant whose father expired prior to the expiry of the father of the petitioner in the instant case. Therefore, the petitioner as per the updated list of incumbency is at Serial No. 2 now. In support of her submission, the learned State counsel has produced Communication dated 22/23.05.2024.

[6.] The learned counsel for the petitioner in reply has drawn the attention of this Court to Annexure-8 of the writ petition wherein, the petitioner had sought for certain information about the vacancy position under the establishment of respondent No. 4. The reply made through the RTI is to the effect that there are four vacancies in the Grade-IV post as on April 2023 under the establishment of the respondent No. 4. The learned counsel, therefore, submits that the respondent authorities concerned may be directed to consider the petitioner for appointment against any of the said vacancies against within a specific time frame.

[7.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record.

[8.] The affidavit-in-opposition filed by the respondent No. 4 on 23.04.2024 at paragraph No. 3 may be reproduced as below:-

“3. That with regard to the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Writ Petition, the answering deponent begs to state that the name of the Petitioner has been listed at Serial No. 01 (one) in the Waiting List/Register of applicants applied for appointment to the post of Dobashis on

compassionate ground under the Office establishment of Deputy Commissioner, Mon. It is also pertinent to mention herein that compiled list of vacancies has already been submitted to the Office of the Commissioner, Nagaland for obtaining due approval/permission from Government to conduct District Level Recruitment (DLRB) as all the appointments are mandated to be taken up through District Level Recruitment Board only. Therefore, the above case will be taken up during the next DLRB."

[9.] From the above abstract, it may be seen that the petitioner was listed at Serial No. 1 in the incumbency list and that the compiled list of vacancies has already been submitted to the Office of the Commissioner, Nagaland (respondent No. 3) for obtaining approval/permission from Government, to conduct District Level Recruitment Board. Further, as per the updated list produced by the learned State counsel, the petitioner appears to be at serial No. 2 in the incumbency list. It is, however, seen that as per the RTI reply given to the petitioner, there are at least 4 vacancies under the establishment of respondent No. 4 as on April, 2023. Therefore, having regard to the policy of the State Government, as laid down in the O.M dated 17.09.2015 and also the permission sought for approval to conduct the District Level Recruitment Board by the respondent No. 4

to the respondent No. 3, this Court does not find any impediment to give the appropriate direction to the respondent authorities to consider the case of the petitioner.

[10.] In view of above, the respondents are directed to consider the case of the petitioner for compassionate appointment alongwith all other eligible candidates in terms of the O.M dated 17.09.2015 as expeditiously as possible and at any rate, within an outer limit of 3 (three) months from the date of receipt of a certified copy of this order. The respondent No. 3 shall initiate the process for obtaining approval of the State Government immediately whereafter, the entire process should be completed as directed herein above.

[11.] The Communication dated 06.03.2024 & 23.05.2024 produced by the learned counsel for the petitioner and the State counsel respectively are kept on record and marked as 'X' and 'Y' for identification.

[12.] With the above observation and direction, the Writ Petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant