

GAHC020002082023



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

Case No. : WP(C)/92/2023

SMTI. IMOLEMLA
W/O LATE IMLIONEN, R/O ALEMPANG WARD, MOKOKCHUNG, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND,
KOHIMA 2:THE COMMISSIONER AND SECRETARY
DEPT. OF RURAL DEVELOPMENT
NAGALAND KOHIMA

3:THE DIRECTOR
DEPARTMENT RURAL DEVELOPMENT
NAGALAND KOHIMA

4:CLOVK DEVELOPMENT OFFICER
RD BLOCK NOKSEN
NAGALAN

Advocate for the Petitioner : ANUNGLA LKR

Advocate for the Respondent : GOVT ADV NL

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

ORDER

Date : 31-05-2024

Heard Ms. Anungla Lkr, learned counsel for the petitioner. I have also heard Ms. S. Chang, learned Government Advocate appearing on behalf of the State respondents.

2. By filing this writ petition under Article 226 of the Constitution of India the petitioner prays for issuance of appropriate writ or order or direction to the respondent authorities to appoint the petitioner in any suitable post under the die in harness scheme provided in the OM No. AR-8/8/78 dated 17.09.2015 issued by the Chief Secretary to the Government of Nagaland.

3. The case of the petitioner is that her husband Late Imlionen who was working as a regular employee as Driver in the Office of the Rural Development Block, Noksen, Nagaland under the Directorate of Rural Development, Nagaland, Kohima died in harness on 19.10.2015 leaving behind the petitioner (wife) and two children. The deceased husband was the only bread earner of the family. His untimely demise has left the members of the family in penury and distress. The petitioner having no other means of livelihood, approached the concerned authority and submitted a representation dated 27.10.2015 before the Director, Rural Development, Nagaland praying for appointment in any Grade –IV post on compassionate ground.

4. After submission of the said representation, as a follow up action, the petitioner has been visiting the office of the respondent authorities from time to time who verbally had assured that her case would be considered. However, till date no favorable action has been taken for appointment of the petitioner to any suitable government job.

5. The learned counsel for the petitioner submits that under the scheme of the OM dated 17.09.2015, one of the surviving family members of the deceased employee viz., spouse, son or daughter is entitled to be appointed on compassionate ground. However, in the instant case of the petitioner, although more than 8 years has passed since the date of submission of the said application, the same has not been considered by the respondent authorities. The petitioner being aggrieved by the inaction of the respondent authorities, has filed this writ petition. Hence, prays for a direction to the respondent authorities to appoint the petitioner in the Department in any suitable post in terms of the OM dated 17.09.2015.

6. On the other hand, the learned counsel for the State respondent submits that the Department has not received the application dated 27.10.2015 stated to have been submitted by the petitioner and as such, there is no question of any action being taken on the part of the department. In case the applicant submits such application the same shall be considered as per the rule and according to the seniority of the applicants basing on the date of death of the employee being maintained in the department.

7. At this stage, the learned counsel for the petitioner submits that although the petitioner has already submitted an application before the concerned authority in the year 2015, she may be allowed to submit a fresh application to the Department for her appointment on compassionate ground under the die in harness scheme. The learned Government Advocate has got no objection to the prayer made by the petitioner's counsel for submission of fresh application by the petitioner before the concerned authority. The learned government advocate further submits that such application to be submitted shall be considered keeping in view the requirements laid down in OM and after following the due process for compassionate appointment.

8. It is not disputed that the scheme under the OM dated 17.09.2015 is still in operation and the petitioner's husband who was working as a regular employee as Driver in the Office of the Rural Development Block Noksen, Nagaland under the Directorate of Rural Development, Nagaland, Kohima died on 19.10.2015 while in service, as such, under the scheme, one of the surviving family members of the deceased employee is entitled to be considered for appointment on compassionate ground.

9. In view of the facts and circumstances stated above and as agreed upon by the learned counsel for the parties and also considering the submission of the learned Government Advocate that they have not received any application from the petitioner, this writ petition is disposed of with a direction that the petitioner shall submit a fresh application before the respondent authorities for appointment on compassionate ground enclosing all the necessary

documents; and on such application being made by the petitioner, the respondent authorities shall examine and take a decision for appointment of the petitioner to any suitable post on compassionate ground in terms of the OM dated 17.09.2015 within a period of 4(four) months from the date of receipt of a certified copy of this order.

10. With the above observation, the writ petition stands disposed of.

Sd/-
JUDGE

Comparing Assistant