

GAHC020005122023



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

Case No. : WP(C)/213/2023

IMNASENLA AO
D/O LATE LANUCHUBA AO,
LHOMITHI COLONY, DIMAPUR, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, KOHIMA, NAGALAND
2:THE COMMISSIONER AND SECRETARY

NAGALAND STATE TRANSPORT

GOVERNMENT OF NAGALAND
KOHIMA

3:THE GENERAL MANAGER

TRANSPORT
NAGALAND
DIMAPUR

4:ASST. GENERAL MANAGER

NAGALAND STATE TRASNPOR
PEREN
NAGALAN

Advocate for the Petitioner : LIMATOSHI

Advocate for the Respondent : M. LONGKUMER

**BEFORE
HON'BLE MR. JUSTICE L.S. JAMIR**

ORDER

Date : 14-06-2024

Heard Mr. Limatoshi, learned counsel for the petitioner. Also heard Mr. M. Longkumer, learned Government Advocate for the respondents.

2. The father of the petitioner, late I. Lanuchuba Ao died in harness while serving as UDA in the Nagaland State Transport Department, Peren District. Thereafter, the petitioner made an application on 18.04.2019 praying for appointment on compassionate grounds.

3. It is the case of the petitioner that the State government through the Department of Personnel and Administrative Reforms (Administrative Reforms Branch) has issued the OM dated 17.09.2015 on the subject of " Revised compassionate appointment scheme for the State Government Employees who died in harness." Under the said scheme, it is provided that the appointment on compassionate ground will be given only to spouse or son or daughter only, and such compassionate appointment shall be made only on regular basis to direct recruitment posts. The scheme further stipulates that the compassionate appointment may be made to the post falling under the combined direct recruitment quota of Grade C and D posts. The OM further provides that the scheme for compassionate appointment of 5% of the direct recruitment vacancies in Grade C and D has been done away with and enhanced

to 50 % of vacancies during a year. Thereafter, the Department of Personnel and Administrative Refoms (Administrative Reforms Branch) issued another addendum on 09.04.2019 in continuation of the OM dated 17.09.2015, wherein it is provided that the compassionate appointments made to Grade C and D posts 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 all other eligibility criteria.

4. The learned counsel for petitioner submits that the father of the petitioner died on 16.04.2019 and the petitioner made her application for appointment on compassionate grounds on 18.04.2019. However, as no steps were taken, the petitioner through the RTI had requested for certain information on 17.10.2022 before the Public Information Officer, Office of the General Manager, Nagaland State Transport, Dimapur, Nagaland. In reply to the RTI application, the Department responded by a reply on 17.11.2022. In the said reply, particularly to query No. 1 i.e. details of employee who died in harness from 2010 till date, the name of the petitioner's father has not been included. Further with regard to the query no. 3 i.e., details of applications received on compassionate ground w.e.f. 2010 till date, the application of the petitioner which was made on 18.04.2019 has not been reflected and the first application for appointment on compassionate appointment is shown as 10.09.2019. The learned counsel for the petitioner therefore submits that as the petitioner had already made her application on 18.04.2019 the petitioner should be considered for appointment on compassionate ground in as much as, as per the

reply given to the petitioner in terms of her RTI information the petitioner's application appears to be the first application i.e, 18.04.2019.

5. The respondent nos. 1 to 4 have filed counter affidavit. The learned Government Advocate on the basis of the counter affidavit filed on behalf of respondent nos. 1 to 4 submits that the Department has misplaced the application made by the petitioner on 18.04.2019 despite the same being forwarded by the Assistant General Manager, Nagaland State Transport, Peren, Nagaland to the Chief Manager, Nagaland State Transport, Dimapur, Nagaland on 22.04.2019.

6. He also submits that as the application of the petitioner has been misplaced, the name of the petitioner could not be inserted in the list of appointments to be made on compassionate ground in terms of the OM dated 17.09.2015 as well as the addendum dated 09.04.2019. It is further submitted that the Department will consider the appointment of the petitioner on compassionate ground, however, for such consideration, a reasonable period of time is required and a fresh application may be made by the petitioner.

7. After hearing the learned counsel for the parties and on consideration of the materials available on record, this Court has noticed that the petitioner had made an application on 18.04.2019 which was duly forwarded by the Assistant General Manager, Nagaland State Transport, Peren, Nagaland to the General Manager, Nagaland State Transport, Nagaland, Dimapur on 22.04.2019. Thereafter nothing transpires to have happened for consideration of

the case of the petitioners for appointment on compassionate ground.

8. This Court has also considered the reply of the Department to the RTI application made by the petitioner on 17.10.2022. With regard to the details of the employees who died in harness after 2010, it appears the name of the petitioner's father has not been inserted in the said category. Further, with regard to the application made for appointment on compassionate ground it is also seen that the name of the petitioner has not been included in the said category.

9. This Court has considered the representation dated 14.03.2023 made by the petitioner and addressed to the General Manager, Nagaland State Transport, Nagaland, Dimapur wherein it is specifically stated that she had made her application on 18.04.2019 and the same was forwarded to the General Manager, Nagaland State Transport, Nagaland, Dimapur on 22.04.2019.

10. After considering the submission made by the learned Government Advocate that the Department is ready to consider the case of the petitioner for appointment on compassionate ground, however, considering that the Department is handicapped in as much as the representation made by the petitioner has been misplaced, this Court directs the petitioner to file an application for appointment on compassionate ground before the General Manager, Nagaland State Transport, Nagaland, Dimapur / respondent no. 3 for appointment to any vacancies in grade C or Grade D in terms of the OM dated 17.09.2015 and the addendum dated 09.04.2019. Let

such application be made within a period of 2(two) weeks from the date of this order. If the petitioner makes her application as directed herein above, the application of the petitioner shall be deemed to have been made on 18.04.2019.

11. Thereafter, the respondent no. 3 shall consider the application made by the petitioner and consider her case for appointment on compassionate ground within a period of 3 (three) months from the date of receipt of the application. It is made clear the outcome of the consideration by the respondent no. 3 shall be communicated to the petitioner.

12. With the above observation and directions, this writ petition stands disposed of.

Sd/-
JUDGE

Comparing Assistant