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

Case No. : WP(C)/734/2024

NUR MAHAMMAD ALI
SON OF LATE MAKCHER ALI, RESIDENT OF WARD NO-8, BARAMA ROAD, NALBARI, P.O. NALBARI, DISTRICT- NALBARI, ASSAM, PIN- 781335

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, FOREST DEPARTMENT, ASSAM SECRETARIAT, DISPUR, GUWAHATI-06

2:THE CHIEF SECRETARY
TO THE GOVT. OF ASSAM
DISPUR
GHY-06
ASSAM

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ARANYA BHAWAN
PANJABARI
GUWAHATI-37
ASSAM

4:THE COMMISSIONER PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
PANJABARI
KHANAPARA
KAMRUP(M) GUWAHATI-781037
ASSAM

5:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT (B) DEPARTMENT
GUWAHATI-06
ASSA

Advocate for the Petitioner : MR. J KALITA, DIKSHITA DEKA

Advocate for the Respondent : GA, ASSAM, SC, P AND R.D.,MR. R DHAR,MR. I BORTHAKUR,SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

17.06.2026

Heard Mr. J. Kalita, learned counsel for the petitioner. Also heard Mr., A.K. Ghosh, learned Standing Counsel, P&RD and Mr. P Saikia, learned Government Advocate, Assam.

2. This petition is filed by the petitioner seeking a direction to the court for appointment on compassionate ground in terms of the recommendation of the SLC in favor of the petitioner held in its meeting on 02.03.2023.

3. The brief facts necessary to decide this matter are that the petitioner's father was serving as Forest Guard under the Forest Department. He died in Harness on 06.10.2001. The petitioner submitted his application for consideration of his case for appointment on compassionate ground.

4. It submitted that the petitioner was earlier suffering from some locomotor disability but having undergone a major surgery, his disability has improved to a sufficient extent. The claims of the petitioner for not being considered, the

petitioner approached this court by filing WP(C) No. 2697/2020, which came to be disposed of by the following order dated 04.11.2022:

> "*Heard Mr. J. Kalita, learned counsel for the petitioner and Mr. D. Gogoi, learned Standing Counsel, Forest Department for the respondent nos. 1, 3, 4 & 5.*
>
> *Mr. Gogoi, learned Standing Counsel, Forest Department has submitted that the case of the petitioner for compassionate appointment is going to be placed by the respondent Forest Department in the next State Level Committee [SLC] meeting. Mr. Gogoi has submitted that he has made this statement on the basis of the statements made in the affidavit-in-opposition filed by the respondent no. 3.*
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> *Mr. Kalita and Mr. Gogoi have submitted, in unison, that this writ petition can, therefore, be disposed of, without going into the merits of the claim of the petitioner, with an observation that the outcome of the decision of the State level Committee [SLC] taken in respect of the application of the petitioner for compassionate appointment its next meeting be communicated to the petitioner thereafter.*
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> *In view of the above joint submission made by Mr. Kalita and Mr. Gogoi, this writ petition stands closed, without going into the merits of the claim of the petitioner, with the observation that the decision to be taken by the State Level Committee [SLC] in respect of the application of the petitioner for compassionate appointment, be communicated to the petitioner herein forthwith thereafter. The petitioner will be at liberty to seek appropriate remedy in the event he is aggrieved by the decision so taken by the State Level Committee [SLC]."*

5. In deference to the said order, the matter was placed before the SLC by the Forest Department. It is given to understand by the counsel for the Forest that in respect of appointments on compassionate ground in so far as the Forest Department is concerned, there is no District Level Committee, the matters are

placed before the SLC and the SLC by its minute dated 02.03.2023 recommended the petitioner to be appointed in a Grade-III post. Pursuant to this recommendation, the Deputy Secretary to the Panchayat and Rural Development accorded permission for appointment of the petitioner in a Grade-III post under the P&RD department. The Commissioner in turn sought for administrative approval so as to enable the commissionerate to appoint the petitioner on compassionate ground under Grade-III post.

6. Pursuant to notice of Motion, opportunities being granted to the respondents/ P&RD and today when the matter is called up, the learned Standing Counsel has placed before the Court the communication dated 28.07.2025. By the said communication, the matter was returned back to the Environment and Forest Department with a request to place the matter before SLC to obtain approval for appointment under P&RD in due course of time. In the said communication, a reference has made to the OM dated 18.09.2024.

7. In the absence of any counter affidavit being filed, the submissions made by the respective counsel for the respondents are considered.

8. The petitioner submitted his application for compassionate appointment in respect of the services which were rendered by his late father for due appointment, as his father was stated to be the sole breadwinner and who expired on 06.10.2001. This application came to be placed before the SLC and

the SLC vide the minutes dated 02.03.2023 recommended for appointment at Grade-III post. The said minutes do not reflect whether the appointment is to be made under the Forest Department or under any other department.

9. From the communications brought on record by the writ petitioner by way of additional affidavit, it is seen that communications were issued between the Forest and the P&RD and the P&RD department had sought for administrative approval for appointment of petitioner in a Grade-III post pursuant to the recommendation granted. This makes it clear that there were some communications between the Forest and Environment Department and the P&RD for appointment of the petitioner in a Grade-III. There is nothing on record to suggest that there are no vacancies available under the Forest Department.

10. Be that as it may, from the communications exchanged between the P&RD and the Forest Department brought on record by way of an additional affidavit by the writ petitioner, it is apparent that the P&RD department has taken steps to request for administrative approval for appointment of the writ petitioner. However, by the communication dated 28.07.2025, it appears that the proposal has been remanded back to the Forest Department for being placed before the SLC to obtain approval under the P&RD department in due course of time. Reference in this regard was made to the OM dated 18.09.2024. The said OM

dated 18.09.2024 was issued by the State for reviewing of the schemes for appointment of a family member of the government servant on compassionate appointment. Referring to the judgment of the Apex Court rendered in *State of West Bengal Vs Debabrata Tiwari & ors (Civil Appeal Nos. 8855/2022),* the following decision was taken by the State:

> "*In view of the circumstances mentioned above, it has been decided that no cases for appointment on compassionate ground to the family member of State Government employees who died in harness or retire prematurely on being declared permanently incapacitated for service or missing and whose whereabouts is not known prior to 31.03.2017, shall be entertained by any Administrative Department/Authority for any reason whatsoever no be placed before SLCs/ DLCs for recommendation of candidates for appointment on compassionate ground. The cases of employees who die/died in harness after 31.03.2017 have been taken care by way of "**Compassionate Family Pension Scheme in lieu of Compassionate Appointment"** vide No. FEG. 28/2017/26 dated 14.09.2017"*

11. This particular notification, it is apparent that the said OM has been issued on 18.09.2024 and there is no reference in the office memorandum that it will have any retrospective effect. The case of the petitioner was considered in terms of the directions issued by the court by the order dated 04.11.2022 passed in WP(C) No. 2697 of 2020. Therefore, at the time when the direction of the Court was issued, this OM was not in force. The SLC minutes recommending the petitioner for appointment under Grade-III was also taken on 02.03.2023, well prior to the issuance of the OM dated 18.09.2024. Prior to the issuance of

the OM dated 18.09.2024, the OM dated 01.06.2015 was in forced. The said OM dated 01.06.2015 came to be superseded by the 14.09.2017. However, at Clause 5.11 of the said OM dated 14.09.2017, it is provided as under:

> "***5.11*** *The scheme is applicable to those employees who died/die in harness on or after 01.04.2017. However the relevant OMs related to the Compassionate appointments will be applicable to those who died on or before 31.03.2017"*

11. Coming to the facts of the case, the petitioner's father expired in the year 2001 and therefore since his father expired well prior to 31.03.2017, the notification dated 14.09.2017 is not applicable.

12. In so far as the provisions of the OM dated 01.06.2015 is concerned, at Clause 15 of the said notification, it is provided that if sufficient vacancies are not available in any particular office to accommodate, the persons in the waiting list for compassionate appointments, it is open to the administrative department or office to take up the matter with the other departments or office or the government to provide an early appointment on compassionate grounds to those in the waiting list.

13. That being the position, from the communications exchange between the Forest Department and the P&RD, it is apparent that P&RD had taken steps to obtain administrative approval from the concerned departments.

14. Under such circumstances, it is clear that there is a decision in favor of the writ petitioner taken by the SLC for appointment into the post of Grade-III and

the P&RD department has taken steps seeking administrative approval for appointment in the Grade-III post under the P&RD department. The communication dated 28.07.2025 placed before the court by the Standing Counsel, P&RD requiring the proposal to be returned to the Environment and Forest Department for being re-considered by the SLC to obtain approval for appointment under P&RD, appears to be not in conformity with the notifications and the circulars of the Government of Assam.

15. Under such circumstances, the claim of the writ petitioner has to be allowed. The P&RD department will now take steps to obtain the required administrative approval for appointment of the writ petitioner in a Grade-III post as per the decision taken by the SLC by its minutes of the meeting held on 02.03.2023.

16. The writ petition accordingly stands closed and disposed of.

17. Let this exercise be completed within a period of 60 days from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant