GAHC010230812024

2026:GAU-AS:12316

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

Case No. : Cont.Cas(C)/576/2024

SMTI RUBI GOSWAMI
W/O- LATE MUNINDRA SARMA, R/O- VILLAGE AND P.O. MAZIRGAON,
DIST. KAMRUP(M), ASSAM

VERSUS

NARAYAN KONWAR AND ORS.
SECRETARY TO THE GOVT. OF ASSAM, SCHOOL EDUCATION
DEPARTMENT, DISPUR, GHY-6.

2:DR. RAVI KOTA
IAS
CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-6.

3:SRI M. S. MANIVANNAN
IAS
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-6.

4:SMTI. MALABIKA CHOUDHURY
IAS
SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

5:SRI B. CHAKRABORTY
L. R. AND SECRETARY TO THE GOVT. OF ASSAM

JUDICIAL DEPARTMENT
DISPUR
GUWAHATI-6.

6:SRI SHAH NAWAZ CHOWDHURY
IAS
SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GUWAHATI-6.

7:SRI RUP KUMAR RABHA
DEPUTY SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR P SARMAH,

Advocate for the Respondent : MR S M T CHISTIE(R2,6), MR S M T CHISTIE,MR A CHALIHA(R4),MR. B GOGOI(R4),R SAHIINII(R3,7),MR. D NATH(R3,7),MS. S KONWAR,MR. U SARMA

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

26.08.2026

Heard Mr. P Sarmah, learned counsel for the petitioner. Also heard Mr. U Sharma, learned counsel for the contemnor No. 1; Mr. S M T Chistie, learned counsel for the contemnor Nos. 2& 6; Mr. A Chaliha, learned counsel for the contemnor No. 4 as well as Mr. R Sahiinii, learned counsel appearing on behalf of Mr. D Nath, learned senior Government advocate for the contemnor Nos. 3 & 7.

2. The present contempt petition has been filed alleging non-compliance of the order dated 28.04.2023 passed by this Court in WP(C) No. 7175/2022, whereby the respondents were directed to place the case of the petitioner before the next meeting of the State Level Committee for compassionate appointment (hereinafter referred to as "the

SLC") afresh, for consideration of her claim for compassionate appointment, keeping in view her eligibility for appointment to any Grade-III post, being a Master's degree holder in Assamese, and by considering relaxation of the upper age limit applicable to her at the time of making her application for compassionate appointment. The respondents were further directed to intimate the outcome of such consideration to the petitioner. The relevant directions contained in the aforesaid order read as under:

> "*15. Considering the provisions laid down in the Office Memorandum No. ABP 50/2006/Pt/182 dated 01.06.2015, noted above, the impugned decision of the State Level Committee for compassionate appointment rejecting the case of the petitioner for her compassionate appointment in terms of the said O.M. in its meeting held on 04.01.2021 on the ground of over age and under-qualification for the post of Assistant Teacher is hereby set aside and quashed.*
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> *16. The Secretary to the Government of Assam in the Department of School Education shall place the case of the petitioner before the next meeting of the SLC for compassionate appointment afresh for her compassionate appointment, considering her eligibility in any Grade-III post being a Master Degree holder in Assamese, relaxing her over age at the time of her application for compassionate appointment in terms of Clause-16 of the said O.M. dated 01.06.2015, noted above, as applicable.*
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> *17. Petitioner shall submit a certified copy of this order along with a copy of this writ petition including the Annexures appended thereto, before the Secretary to the Government of Assam in the Department of School Education providing her Address, Mobile Number, E-mail Address etc. forthwith, obtaining necessary acknowledgment from the said authority in that regard.*
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> *18. After its decision, the State Level Committee for compassionate appointment shall intimate the petitioner regarding her claim for appointment on compassionate ground."*

3. Upon notice being issued, the contemnors entered appearance and filed their respective responses. It is the specific case of the learned counsel appearing for the contemnors that the directions issued by this Court were duly acted upon and that the case of the petitioner was placed before the SLC for consideration. It is further submitted that, upon consideration of the matter, the SLC ultimately declined the petitioner's claim.

4. The affidavit-in-opposition filed by the contemnor No. 1 discloses that, in compliance with the order dated 28.04.2023, the petitioner's case was placed before the SLC in its meeting held on 18.08.2023. Upon consideration, the SLC directed that the

views of the Personnel Department be obtained in respect of the question of relaxation of the upper age limit of the petitioner and that the matter thereafter be placed before the SLC for further consideration.

5. Pursuant thereto, the Department of School Education took steps for consideration of the question of relaxation of the petitioner's upper age in terms of the prevailing Office Memorandum of the Personnel Department and also sought the views of the Personnel Department so as to facilitate further consideration of the matter by the SLC.

6. In the meantime, the Personnel (B) Department issued Office Memorandum dated 18.09.2024, whereby all Departments were directed not to entertain cases of compassionate appointment, including cases which were not known prior to 31.03.2017. Under the policy contained therein, cases of employees who died-in-harness after 31.03.2017 were sought to be dealt with under the compassionate family pension scheme in lieu of compassionate appointment.

7. In the present case, the husband of the petitioner, who was serving as an Assistant Teacher under the Government of Assam, died-in-harness on 18.12.2016. The petitioner, however, submitted her application for compassionate appointment on 25.05.2017. The respondents have relied upon the Office Memorandum dated 18.09.2024 and have stated that the petitioner's application fell outside the category of cases to be entertained under the prevailing policy.

8. Subsequently, the Personnel Department returned the file relating to relaxation of the petitioner's upper age, calling upon the Department of School Education to take necessary steps in accordance with the guidelines contained in the SOP dated 30.08.2025.

9. It is also borne out from the records that Clause 16 of the Personnel Department's Office Memorandum dated 01.06.2015 empowers the SLC to grant relaxation of the upper age limit in appropriate cases. In view of the further order dated 22.10.2025 passed in the present contempt petition, the petitioner's case was again placed before the SLC in its

meeting held on 31.10.2025.

10. Upon consideration of the relevant records and documents, the SLC noticed that, although Clause 16 of the Office Memorandum dated 01.06.2015 empowers it to grant relaxation of the upper age limit, it ultimately decided that the petitioner's case could not be considered for compassionate appointment by granting such relaxation.

11. The decision of the SLC was thereafter communicated to the petitioner by letter dated 10.10.2025.

12. From the aforesaid sequence of events, it is evident that pursuant to the order dated 28.04.2023, the petitioner's case was placed before the SLC, the issue relating to relaxation of her upper age was considered, the matter was thereafter processed at the departmental level, the views of the Personnel Department were sought, and, pursuant to the subsequent directions passed in the contempt proceedings, the matter was again placed before the SLC. The SLC ultimately took a decision on the petitioner's claim and the said decision was communicated to her.

13. Learned counsel for the petitioner, however, submits that the decision ultimately taken by the SLC amounts to a circumvention of the directions contained in the order dated 28.04.2023 and that the speaking order/decision rejecting the petitioner's claim is therefore liable to be interfered with in the present proceedings.

14. The submission, however, cannot be examined in the present contempt proceedings. The jurisdiction of this Court in contempt is directed towards ensuring compliance with the order of the Court and not towards adjudicating the correctness or otherwise of a subsequent administrative decision taken in purported compliance thereof. The Court exercising contempt jurisdiction is not an executing Court.

15. The order dated 28.04.2023 required the respondents to place the petitioner's case before the SLC for fresh consideration in the terms specifically indicated therein and to intimate the petitioner of the outcome. The materials placed before this Court demonstrate that the said exercise was undertaken. The petitioner's case was placed before the SLC on more than one occasion, the question of relaxation of the upper age

limit was considered, and a decision was ultimately taken by the competent authority and communicated to the petitioner.

16. Whether the subsequent decision of the SLC is legally sustainable, whether the Office Memorandum dated 18.09.2024 could have been applied to the petitioner's case, whether the SLC correctly construed the scope of its power under Clause 16 of the Office Memorandum dated 01.06.2015, and whether the decision taken is otherwise consistent with the earlier directions of this Court are matters which travel beyond the limited question of compliance arising in the present contempt petition. Such issues, if raised, would require adjudication in appropriate proceedings assailing the subsequent decision on its own merits.

17. On a consideration of the order dated 28.04.2023 and the steps taken thereafter by the respondents, this Court is satisfied that the directions contained in the said order have substantially been acted upon and complied with. The mere fact that the ultimate decision taken by the SLC is adverse to the petitioner cannot, by itself, constitute non-compliance of the order of this Court.

18. It is accordingly held that no case of willful or deliberate disobedience of the order dated 28.04.2023 is made out against the contemnors.

19. In view of the above, nothing further survives for consideration in the present contempt petition. The contempt petition is accordingly closed.

20. The notices issued to the contemnors stand discharged.

21. It is, however, clarified that this Court has not examined or adjudicated upon the merits or legality of the decision taken by the SLC rejecting the petitioner's claim for compassionate appointment. The petitioner shall be at liberty to assail the said decision and any consequential action of the respondents in an appropriate proceeding, in accordance with law. Any such proceeding shall be considered on its own merits and uninfluenced by the observations contained in the present order.

JUDGE

Comparing Assistant