GAHC010007682016

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

Case No. : WP(C)/591/2016

SIMANTA THAKURIA
S/O LT. SUREN THAKURIA, VILL. NIZ NAMATI, P.O. NIZ NAMATI, DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, EDUCATION DEPTT., DISPUR, GHY-6

2:THE STATE LEVEL COMMITTEE FOR

3:THE DISTRICT LEVEL COMMITTEE

4:THE DISTRICT ELEMENTARY EDUCATION OFFICE

Advocate for the Petitioner : MR.H DAS

Advocate for the Respondent : MS.B BHUYAN

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 23-11-2020

Heard Mr. H. Das, learned counsel for the petitioner. Also heard Mr. B. Deuri, learned

counsel for the respondents no. 2 and 3 and Mr. N.J. Khatiniar, learned Standing counsel for the Elementary Education Department.

2. The father of the petitioner Mr. Suren Thakuria, who was the Head Teacher of Medhipara L.P. School went missing around 05.11.2005. Subsequently, there was a missing declaration of Court of Munsiff No. 1, Nalbari in T.S. No. 29/2013 that since the father of the petitioner had been missing from 05.11.2005, therefore, the petitioner and other members of the family are entitled to get a declaration that he died on 05.11.2005.

3. Be that as it may, after such declaration, the petitioner submitted an application for compassionate appointment on 08.09.2015. Mr. B. Deuri, learned counsel for the respondents no. 2 and 3 refers to the office memorandum dated 01.06.2015 wherein in Clause 1(3) it is provided that even in such cases where a person goes missing and there is a declaration that the person is presumed to have been dead, the entitlement for compassionate appointment would be applicable.

4. In the instant case as there was a subsequent declaration by the civil court that the father of the petitioner Suren Thakuria died after he went missing, their case would also covered by the aforesaid provision in the office memorandum dated 01.06.2015.

5. From the aforesaid aspect, we are of the view that the claim of the petitioner for compassionate appointment is worth a consideration by the concerned DLC. Accordingly, this writ petition stand disposed of with a direction to District Elementary Education, Baksa, Mushalpur to place the application of the petitioner for compassionate appointment submitted on 08.09.2015 before the next available DLC of Barpeta district. Upon it being placed, the DLC shall consider application of the petitioner and pass a reasoned order thereof.

6. Writ petition stands allowed in the above terms.

JUDGE

Comparing Assistant