GAHC010234852017

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

**Case No. : WP(C)/2188/2017**

HIRAMANI TALUKDAR
D/O- LATE LOKENDRA NATH TALUKDAR, R/O- VILL-
MUGURIABASHYAPARA, P.O- MUGURIA, P.S- PATACHARKUCHI, DIST-
BARPETA, ASSAM, PIN- 781325

VERSUS

THE STATE OF ASSAM and 8 ORS.
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT OF
ASSAM, EDUCATION DEPPTT. OF HIGHER EDUCATION, DISPUR,
GUWAHATI- 06

2:THE UNDER SECRETARY
TO THE GOVT OF ASSAM
EDUCATTION DEPTT OF HIGHER EDUCATION
DISPUR
GUWAHATI-06

3:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19
DIST- KAMRUP
ASSAM

4:THE DEPUTY DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19
DIST- KAMRUPM

5:THE INSPECTOR OF COLLEGE

OFFICE OF THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
GUWAHATI- 19
DIST- KAMRUPM

6:THE PRINCIPAL
BAJALI COLLEGE
PATHSALA
DIST- BARPETA

7:THE PRESIDENT
GOVERNING BODY OF BAJALI COLLEGE
PATHASALA
DIST- BARPETA
ASSAM

8:THE DISTRICT LEVEL COMMITTEE
BARPETA
REPRESENTED BY ITS CHAIRMAN
THE DEPUTY COMMISSIONER
DIST- BARPETA

9:THE DEPUTY COMMISSIONER CUM CHAIRMAN
THE DISTRICT LEVEL COMMITTEE
DIST- BARPETA
ASSA

**Advocate for the Petitioner** : MR.S BORTHAKUR

**Advocate for the Respondent** : MR.D K ROYR- 6and7

**BEFORE**
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**ORDER**

**Date : 08-12-2020**

Heard Ms. S. Kakati, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned Standing counsel for the Higher Education Department, Mr. D.K. Roy, learned counsel for the authorities under Bajali College, Pathsala including the Principal of Bajali College and Mr. B. Deuri, learned counsel for the respondents no. 8 and 9.

2. The father of the petitioner who served as a Grade IV employee in the Bajali College, Pathsala died in harness on 01.08.1996. Immediately, on his death the petitioner submitted an application for compassionate appointment addressed to the Principal on 06.08.1996 i.e. within five days of the death of her father. Unfortunately, the Principal sat over the matter and did not do the needful.

3. It is expected that a person holding the post of Principal of a College behaves in a more responsible way and be more attentive to the difficulties which the family of a deceased employee may suffer, more so, when the law provides for the provisions of making the compassionate appointment and it is not the discretion of the Principal to hold back and not to forward any such applications to the authorities.

4. Be that as it may, the application was not forwarded in time. As the application was not forwarded, the petitioner went on submitting repeated applications. Ultimately, the application dated 07.04.2016 was placed before the DLC of Barpeta district in its meeting of 19.01.2017. The DLC rejected the claim of the petitioner by stating that the application is of 07.04.2016 and therefore, it was beyond the prescribed time limit.

5. The said situation had arisen because of irresponsibility of the Principal as because the first application was not placed before the DLC. Be that as it may, as the petitioner had submitted the first application on 06.08.1996 i.e. within the five days of the death of her father, the same be placed before the next DLC of Barpeta district for its appropriate consideration. The rejection of the claim of the petitioner on the ground that the application was filed on 07.04.2016 accordingly stands set aside.

6. Upon the application being placed before the DLC, the DLC shall consider the application on its own merit. If the vacancy of 1996 had in the meantime been filled because of the laches on the part of the respondent authorities, more particularly the Principal of the Bajali College and as because it would not be the result of any laches on the part of the petitioner, the DLC may make consideration to the claim of the petitioner in an appropriate manner. If because of the intervening circumstance the vacancies of the year 1996 are not available, the consideration may be made against any other available vacancy for which the petitioner may be suitably qualified.

7. Writ petition stands disposed of in the above terms.

**JUDGE**

**Comparing Assistant**