GAHC010116122023

2026:GAU-AS:16616

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

Case No. : WP(C)/3276/2023

DHIRAJ BARUAH
S/O- LATE PRABIN BARUAH,
R/O- VILL NAYAKPARA,
P.O AND P.S- SIPAJHAR,
DIST- DARRANG, ASSAM, PIN-784145

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM (WORKS), PUBLIC WORKS
(ROAD) DEPARTMENT, DISPUR, GUWAHATI-6, ASSAM

2:THE SECRETARY
GOVT OF ASSAM
PERSONNEL (B) DEPARTMENT
DISPUR GUWAHATI-06

3:THE DEPUTY COMMISSIONER
CUM CHAIRMAN
DISTRICT LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT
DARRANG
MANGALDOI
ASSAM
PIN-784125

4:THE EXECUTIVE ENGINEER
MANGALDOI RURAL ROAD DIVISION
MANGALDOI
DARRANG

ASSAM

PIN-784125

5:THE ASSISTANT EXECUTIVE ENGINEER
PWD MANGALDOI RURAL SUB DIVISION
SIPAJHAR
DARRANG

ASSAM

Advocate for the Petitioner : MR. P K BARMAN, MS. P CHUTIA,MS. S CHUTIA

Advocate for the Respondent : GA, ASSAM, SC, PWD ROAD

BEFORE
HONOURABLE MR. JUSTICE NCHUMBEMO MOZHUI

ORDER

12/11/2026

Heard Ms. S. Chutia, learned counsel for the petitioner. Also heard Mr. A. Banerjee, learned counsel for the respondent, SC, PWD Road as well as Ms. S. Baruah, learned counsel, GA.

2. This writ petition is filed under Article 226 of the Constitution of India praying for consideration of the case of the petitioner for appointment on compassionate ground.

3. The petitioner's father namely, Prabin Baruah was working as U.D.A cum Sub-Divisional Head Assistant in the office of the Assistant Executive Engineer, PWD Rural Road, Sub-Division Sipajhar. The petitioner's father died in harness on 04.06.2014. Accordingly, on 29.10.2014, the petitioner submitted an application along with all testimonials to the Executive Engineer, PWD Mangaldai Rural Road Division Darrang, Respondent No.4 praying for his appointment on compassionate ground in any post of Grade-III/IV. On 18.02.2015 the

Respondent No.4 submitted the proposal of the petitioner to the Deputy Commissioner, Darrang, Respondent No.3. Subsequently in the month of July 2018, the petitioner came to know from the reliable sources that the proposals of the petitioner along with other candidates were placed in the Meeting of the District Level Committee held on 22.06.2016, but the proposal of the petitioner could not be recommended on the ground that the deceased had less than 3 years of services left at the time of his death in terms of Govt. OM dated 01.06.2015. The Office Memorandum dated 01.06.2015 is not applicable in the case of the petitioner because his father's died in harness on 04.06.2014. At the time of death of the petitioner's father, O.M. No. ABP.357/80/Vol.1/303 dated 02.03.2009 was in force. The petitioner has continuously approached the Respondent authorities for consideration of his case for appointment on compassionate ground. But action has been forth coming till date.

4. The learned counsel for the petitioner submits that being aggrieved by the non-consideration of his case, has filed the instant petition praying for a direction for consideration of the case of his case on compassionate ground. The learned counsel for the petitioner at the outset draws the attention of this Court to the common Judgment and Order dated 30.01.2023, passed in W.P.(C) No.1646/2021 (Bhaskar Konwar-Vs-the State of Assam & others) and other connected matters, wherein the coordinate Bench of this Court has held that the clause-(1) of the Office Memorandum vide No. ABP/50/2006/Pt/182 dated 01.06.2015 insofar as depriving the dependents of the Govt. servants who had died in harness having less than 3 (three) years of service from being not eligible to be considered for compassionate appointment as unconstitutional, being violative of Article 14 of the Constitution of India and have accordingly struck down Clause (1) of the said Office Memorandum to the extent that

deprives the dependents of Govt. servant who have died in harness having less than 3 (three) years of service to be not eligible for Compassionate Appointment and also directed the State Level Committee/District Level Committee for compassionate appointment as the case may be to reconsider the case of the compassionate appointment without insisting upon the requirements of Clause-1 of the Office Memorandum dated 01.06.2015.

5. The learned counsel for the petitioner further submits that the case of the petitioner is squarely covered by the Judgment and Order dated 30.01.2023 passed in the above referred and as such the rejection of the case of the petitioner that the minimum requirement of having less than three years have been interfered by the coordinate of this Hon'ble court. Under such circumstances, the respondents ought to have considered the case of the petitioner.

6. The learned counsel, Ms. S. Baruah, learned counsel, GA fairly submits that the common Judgment and Order dated 30.01.2023 was put on challenge by the State respondent by filing appeal, however, the same was dismissed by the Division Bench of this Hon'ble Court. In view of the above, State not appealing against the decision of the Division Bench before the higher Court, the Judgment and Order dated 30.01.2023 had attained its finality.

7. This Court has taken into consideration of the submission of the parties and also keeping in view of the common Judgment and Order dated 30.01.2023, the said writ petition is disposed with the following directions: -

a) The respondents are directed to forward the case of the petitioner before the DLC for consideration for appointment on compassionate

ground on account of the death of his father who died in harness on 04.06.2014.

b) The DLC on the application of the petitioner earlier submitted shall put up the matter before the SLC for consideration.

c) The SLC upon recommendation of the DLC shall take appropriate steps for consideration within a period of 1 (one) month.

d) The State respondent on the recommendation of the SLC shall issue an appointment order in respect of the petitioner within a period of 2 (two) months' time.

8. With the above direction, the instant petition stands disposed of.

9. No order as to cost.

JUDGE

Comparing Assistant