GAHC010136562021

2026:GAU-AS:16442

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

Case No. : WP(C)/4466/2021

PRANJAL DAS
S/O LATE MANORANJAN DAS
RAKHAL ROAD, W/ NO. 1,UDALGURI, ASSAM 784509

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY, IRRIGATION DEPARTMENT,GOVT. OF ASSAM, GUWAHATI 06

2:THE BODOLAND TERRITORIAL COUNCIL (BTC)
REPRESENTED BY ITS SECRETARY
KOKRAJHAR
ASSAM 783370

3:THE PRINCIPAL SECRETARY

BODOLAND TERRITORIAL COUNCIL (BTC) KOKRAJHAR CUM CHAIRMAN OF DLC COMPASSIONATE GROUND APPOINTMENT
DIST KOKRAJHAR
ASSAM 783370

4:THE COUNCIL HEAD OF THE IRRIGATION DEPARTMENT
BTC

KOKRAJHAR
ASSAM
783370

5:THE DISTRICT LEVEL COMMITTE (DLC)
FOR SELECTION OF CANDIDATES ON COMPASSIONATE GROUND
REPRESENTED BY ITS MEMBER SECRETARY THE EXECUTIVE ENGINER

DHANSIRI PROJECT DIVISION CANAL 1
IRRIGATION
UDALGURI
ASSAM 78450

Advocate for the Petitioner : MR. U K BARMAN, MR. R KONWAR,MR. M MALAKAR,MR H ALI

Advocate for the Respondent : SC, IRRIGATION, SC, BTC

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 04-11-2026

Heard Mr. M. Malakar, learned counsel for the petitioner. Also heard Mr. N.R. Sarma, learned standing counsel, BTC and Mr. M. Sarma, learned standing counsel, Irrigation Department appearing for the respondents.

2. The petitioner by way of instituting the present proceeding has prayed for a direction upon the respondent authorities for consideration of his case for appointment on compassionate ground. The petitioner has also assailed the decision of the District Level Committee (DLC) arrived at in its meeting held on 07-04-2017, rejecting the claim of the petitioner for appointment on compassionate ground.

3. The facts, in brief, requisite for adjudication of the present writ petition is noticed as under:-

The father of the petitioner Manoranjan Das, while working as a Sectional Assistant in the office of the Executive Engineer, Dhansiri Project Division, Canal No. 1 Irrigation, Udalguri, had died in harness on 15-08-2015. The petitioner, thereafter, on 24-09-2015,

submitted an application for consideration of his case for appointment on compassionate grounds against any Group 'C' vacant post available. The application submitted by the petitioner was forwarded on 19-06-2016 by the Executive Engineer, Dhansiri Project Division, Canal No. 1 Irrigation, Udalguri to the Principal Secretary, Bodoland Territorial Council (BTC) for consideration. It is projected that although the case of the petitioner was so forwarded, his case was not placed before the jurisdictional DLC for consideration. Thereafter, the petitioner from the reply received by him in pursuance to an application submitted by him on 31-12-2019 invoking the provisions of RTI Act, 2005, came to learn that his case was placed before the jurisdictional DLC in its meeting held on 07-04-2017. However, the case of the petitioner was not so favourably recommended on the ground of absence of vacancy within the 5% quota mandated for appointment on compassionate grounds. The petitioner has projected that the case of the petitioner was required to be so considered against the vacant post available in other departments in terms of the guidelines as contained in the OM dated 01-06-2015. It is further projected by the petitioner that the vacancies were available against which the case was permissible to be so considered for appointment on compassionate ground. The petitioner has further projected that from the information received, the meeting of the DLC for consideration of applications submitted by the heirs of the employees who have served in the office of the Executive Engineer, Dhansiri Project Division, Canal No.1 Irrigation, Udalguri was not considered, on account of serious illness suffered by the Executive Engineer.

In the above background, the petitioner has submitted that his case would be now required to be directed to be so considered strictly in accordance with the provisions of

the OM dated 01-06-2015.

4. Mr. M. Malakar, learned counsel for the petitioner by reiterating the facts noticed, hereinabove, has submitted that in the year 2016, the respondents had advertised 24 (twenty four) numbers of vacant post of Sectional Assistant by way of direct recruitment and accordingly, 5% thereof, was mandated to be so reserved for consideration of applications on compassionate grounds including the petitioner, herein. He submits that the jurisdictional DLC in its meeting held on 07-04-2017, although had considered the case of the petitioner, however, the case of the petitioner was not recommended for appointment on compassionate grounds against the post of Sectional Assistant by erroneously holding that there was no vacant post available within the 5% quota mandated for appointment on compassionate grounds. He submits that the said conclusion drawn by the jurisdictional DLC is clearly erroneous and this coupled with the delay occasioning in considering the case of the petitioner on account of illness suffered by the jurisdictional Executive Engineer, it has to be construed that there was no consideration of the case of the petitioner for appointment on compassionate grounds and accordingly, he submits that a direction would be mandated to be issued to the respondent authorities for consideration of the case of the petitioner for appointment on compassionate grounds.

5. Per contra, Mr. N.R. Sarma, learned standing counsel, BTC and Mr. M. Sarma, learned standing counsel, Irrigation Department, have submitted that after submission of the application by the petitioner on 24-09-2015, the petitioner had not diligently pursued his case for appointment on compassionate grounds and it was only in the year 2021 that

the petitioner had approached this Court for consideration of his case for appointment on compassionate grounds. It is further projected that the application of the petitioner being duly considered by the jurisdictional DLC in its meeting held on 07-04-2017 and a recommendation in his favour not being permissible to be made on account of absence of vacant post within the 5% quota mandated for appointment on compassionate grounds, the case of the petitioner was not so considered. It is further projected that 02 (two) years having lapsed since the date of the such consideration extended to the application submitted by the petitioner for appointment on compassionate grounds, the application of the petitioner has been rendered stale and the same would not mandated to be extended with any further fresh consideration.

6. I have heard the learned counsel for the parties and have also perused the materials available on record.

7. The father of the petitioner admittedly had died in harness on 15-08-2015, thereafter, it is seen that the petitioner had submitted an application on 24-09-2015. No recommendation came to be made by the jurisdictional DLC proximate to the time the application was submitted by the petitioner for consideration of his case for appointment on compassionate grounds for consideration of his case for appointment on compassionate grounds. The petitioner is also found to have not raised any grievance in this connection. It is found that the petitioner had submitted an application invoking the provisions of RTI Act, 2005 only on 31-12-2019, i.e. after around 04 years since the date of the death of his father in harness. The said RTI application had brought on record the fact that the application submitted by the petitioner was considered by the jurisdictional

DLC in its meeting held on 07-04-2017. However, no recommendation is found to have been made in favour of the petitioner on the ground that there was no vacant post available within the 5% quota mandated for appointment on compassionate grounds. The petitioner had taken a plea that his case was not considered for a considerable period of time on account of the ailments suffered by the jurisdictional Executive Engineer. However, the said position was disputed by the learned counsel for the respondents and it was contended that the meetings of the jurisdictional DLC was being held at regular intervals and the case of the petitioner was also considered in its meeting held on 07-04-2017.

8. This Court in the case of ***Achyut Ranjan Das & Ors. Vs. State of Assam & Ors.*** reported in ***2006 (4) GLT 674,*** while laying down the principles required to be followed for consideration of claims relating to compassionate appointments had laid down that if the application of eligible candidates remained pending and cannot be considered due to want of vacancies for a period of 2(two) years from the date of making of such application, all such applications would require no further consideration. The application submitted by the petitioner having been considered by the jurisdictional DLC in its meeting held on 07-04-2017, this Court is of the considered view that the application submitted by the petitioner must be construed to have lost its force within 02(two) years, thereafter. The petitioner had also not approached this Court within the said period of time for a direction upon the respondent authorities for expeditious consideration of his case for appointment on compassionate grounds.

9. At this stage, decision of the Hon'ble Supreme Court in the case of ***Debabrata***

Tiwari (Supra) is required to be noticed. The Hon'ble Supreme Court in the said decision had drawn the following conclusions:-

"***32. On consideration of the aforesaid decisions of this Court, the following principles emerge:***

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependents of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

33. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependents of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependents of the deceased employee, after the crisis which arose on account of death of a breadwinner, has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

34. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependents of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter.

35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of

the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.

36. Laches or undue delay, the blame-worthy conduct of a person in approaching a Court of Equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, in Lindsay Petroleum Co. v. Prosper Armstrong, [1874] 3 P.C. 221 as under:

> ***"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute or limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of Justice or injustice in taking the one course or the other, so far as it relates to the remedy."***

37. Whether the above doctrine of laches which disentitled grant of relief to a party by Equity Court of England, could disentitle the grant of relief to a person by the High Court in the exercise of its power under Article 226 of our Constitution, came up for consideration before a Constitution Bench of this Court in Moon Mills Ltd. v. M. R. Meher, President, Industrial Court, Bombay, AIR 1967 SC 1450. In the said case, it was regarded as a principle that disentitled a party for grant of relief from a High Court in the exercise of its discretionary power under Article 226 of the Constitution.

38. In State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566 this Court restated the principle articulated in earlier pronouncements in the following words:

> ***"9. ... the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the Petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this Rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."***

39. While we are mindful of the fact that there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution, ordinarily, a writ petition should be filed within a reasonable time, vide Jagdish Lal v. State of Haryana, (1997) 6 SCC 538; NDMC v. Pan Singh, (2007) 9 SCC 278.

40. Further, simply because the Respondents-Writ Petitioners submitted their applications to the relevant authority in the year 2005- 2006, it cannot be said that they diligently perused the matter and had not slept over their rights. In this regard, it may be apposite to refer to the decision of this Court in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, wherein the following observations were made:

> "***19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time."***

10. Applying the said decision of the Hon'ble Supreme Court in the case of ***Debabrata Tiwari (Supra)*** to the facts of the present case, it is seen that the father of the petitioner had expired on 15-08-2015. The consideration that is now sought to be made in respect of the petitioner herein, for appointment on compassionate grounds is a consideration so required to be made after a lapse of around 11 (eleven) years. The sense of immediacy in the matter of compassionate appointment in respect of the petitioner has been lost. Such delay is attributable to both the authorities of the State as well as the petitioner; however, entertaining the claim at this point of time would be of no avail, because, admittedly, the petitioner has been able to eke out a living even though he was not favoured with an appointment on compassionate grounds. Accordingly, this Court is of the considered view that it is not a fit case to direct the respondent authorities to consider the claim of the petitioner for appointment on compassionate grounds.

11. In view of the foregoing discussions, this Court is of the considered view that the issue involved in the present proceeding being a stale issue, it would not be permissible for this Court to issue any direction requiring consideration of the case of the petitioner

for appointment on compassionate grounds in pursuance to death of his father, in harness, occasioning in the year 2015. Accordingly, the prayer of the petitioner, would not mandate acceptance by this Court.

12. For the reasons assigned, hereinabove, the present writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant