GAHC010171912022

undefined

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

Case No. : WP(C)/5612/2022

LAKHESWARI KALITA AND ANR
W/O- LATE PRAFULLA KALITA,
RESIDENT OF WARD NO. 3, NAKARI,
P.O.- NORTH LAKHIMPUR,
P.S.- NORTH LAKHIMPUR,
DISTRICT- LAKHIMPUR, ASSAM, PIN- 787001

2: AJIT KALITA
S/O- LATE PRAFULLA KALITA

RESIDENT OF WARD NO. 3
NAKARI

P.O.- NORTH LAKHIMPUR

P.S.- NORTH LAKHIMPUR

DISTRICT- LAKHIMPUR
ASSAM
PIN- 78700

VERSUS

THE GENERAL MANAGER (ZONAL), FOOD CORPORATION OF INDIA AND 4 ORS
ULUBARI, GUWAHATI-7.

2:THE GENERAL MANAGER (REGION)
FOOD CORPORATION OF INDIA
REGIONAL OFFICE
ASSAM REGION
REGIONAL OFFICE
GUWAHATI-07.

3:THE AREA MANAGER
FOOD CORPORATION OF INDIA
DISTRICT OFFICE
LAKHIMPUR

NORTH LAKHIMPUR
PIN- 787001

DIST.- LAKHIMPUR
ASSAM PIN- 787001.

4:MANAGAR (ADMN)
FOOD CORPORATION OF INDIA
DISTRICT OFFICE
NORTH LAKHIMPUR.

5:MUNINDRA KALITA
S/O- LATE PRAFULLA KALITA

RESIDENT OF WARD NO. 3
NAKARI

P.O. AND P.S.- NORTH LAKHIMPUR

DISTRICT- LAKHIMPUR
ASSAM
PIN- 78700

Advocate for the Petitioner : MR. B GOGOI, MR. K R PATGIRI

Advocate for the Respondent : SC, F C I,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 05.10.2026

Heard Ms. D. Talukdar, learned counsel for the petitioners. Also heard Mr. B. K. Singh, learned Standing Counsel, FCI, for respondent Nos. 1 to 4. None appears for the respondent No. 5 despite service of notice.

2. This writ petition has been filed seeking appointment of the petitioner No. 2 on compassionate ground in the Food Corporation of India (FCI), on account of the death of his father, Late Prafulla Kalita, who was working as Daftry in the Office of Food Corporation of India at North Lakhimpur. The petitioners have also challenged the letter dated 08.08.2022, issued by the Manager (Admin), FCI, DO, NLP, whereby the respondent No. 5, Shri Munindra Kalita, stated to be the second son of Late Prafulla Kalita, has been directed to furnish the requisite documents for consideration of his case for appointment on compassionate ground.

3. Petitioner No. 1 is the wife of Late Prafulla Kalita and petitioner No. 2 is their third son. It is the case of the petitioners that Late Prafulla Kalita died in harness on 25.05.2003, leaving behind petitioner No. 1 and his 3 (three) sons, including petitioner No. 2 and respondent No. 5. Petitioner No. 2 is stated to be the youngest son of the deceased employee and is presently looking after petitioner No. 1. After the death of Late Prafulla Kalita, respondent No. 5 had initially applied for appointment on compassionate ground. Consequently, by letter dated 08.08.2022, the respondent authorities directed respondent No. 5

to furnish the requisite documents for consideration of his case.

4. It is the case of the petitioners that although respondent No. 5 had initially applied for compassionate appointment, he is not looking after petitioner No. 1, who is the widow of the deceased employee. It is petitioner No. 2 who is looking after petitioner No. 1. Therefore, it is contended that petitioner No. 2 ought to be considered for appointment on compassionate ground in place of respondent No. 5.

5. Ms. D. Talukdar, learned counsel for the petitioners, while referring to the letter dated 03.09.2013, submits that as per the relevant scheme for appointment on compassionate ground, it is permissible to replace the original applicant by another eligible dependent family member. She submits that a son of the deceased employee falls within the definition of dependent family member under the applicable scheme. Although respondent No. 5 had initially applied for compassionate appointment, he is not looking after petitioner No. 1, whereas petitioner No. 2, being the younger son, is looking after his mother. Therefore, she submits that respondent No. 5 may be allowed to be replaced by petitioner No. 2 and the case of petitioner No. 2 may be considered for compassionate appointment.

6. Mr. B. K. Singh, learned Standing Counsel, FCI, while referring to the affidavit-in-opposition filed on behalf of respondent Nos. 1 to 4, submits that the case of respondent No. 5 is not presently being considered for appointment on compassionate ground as appointment against Category-IV posts is not under consideration at present. He further submits that petitioner No. 2 appears to be under-matriculate and as per the prevailing instructions, applicants having such

qualification may be considered for Category-IV posts. However, he submits that recruitment/appointment against such posts has presently been kept on hold.

7. Mr. Singh, learned Standing Counsel, FCI, by placing on record the communications issued by the respondent authorities, submits that the ongoing recruitment for the post of Watchman has been kept on hold as the proposal for abolition of Category-IV posts is under examination by the Ministry and therefore, no appointment against such posts is presently being processed.

8. Considered the submissions of learned counsel for the parties and also perused the materials available on record.

9. The communication dated 03.09.2018 reflects that the Circular dated 26.03.2013 issued by the Department of Personnel and Training relating to the policy/scheme for appointment on compassionate ground is being followed by the Food Corporation of India. The said scheme provides for appointment on compassionate ground to eligible dependent family members of a deceased employee and also provides for replacement of the original applicant by another eligible applicant in appropriate circumstances.

10. In the present case, it is not in dispute that respondent No. 5, who is the second son of the deceased employee Late Prafulla Kalita, had initially applied for compassionate appointment following the death of the father. It is also the case of the petitioners that respondent No. 5 is not presently looking after petitioner No. 1, the widow of the deceased employee, whereas petitioner No. 2, who is the third son, is stated to be looking after her. The petitioners have

accordingly sought consideration of the claim of petitioner No. 2 in place of respondent No. 5.

11. Having regard to the aforesaid circumstances and the fact that the applicable scheme permits substitution of the original applicant by another eligible dependent family member, this Court finds that the claim of petitioner No. 2 cannot be rejected merely on the ground that respondent No. 5 had initially applied for compassionate appointment. The claim of petitioner No. 2 is required to be examined by the competent authority in the light of the applicable scheme, particularly when petitioner No. 2 is stated to be looking after the widow of the deceased employee. At the same time, although the respondent authorities have stated that appointment against Category-IV posts is presently kept on hold in view of the proposal concerning abolition of such posts being under consideration before the competent authority, once the scheme is being followed by the FCI, it would not be appropriate for the respondent authorities to keep the process for consideration for appointment on compassionate ground on hold indefinitely.

12. As has been noted above, petitioner No. 2 is stated to be looking after the widow of the deceased employee, Late Prafulla Kalita. Therefore, his claim for appointment on compassionate ground, in place of respondent No. 5, requires consideration by the competent authority in accordance with the applicable policy/scheme and the relevant instructions governing compassionate appointment.

13. In view of above, I am of the considered view that it would be appropriate

to direct the respondent authorities to consider the case of the petitioner No. 2 for appointment on compassionate ground in any Grade-IV post in place of the respondent No. 5, in accordance with the applicable policy/scheme and the relevant instructions governing compassionate appointment, subject to fulfillment of all eligibility conditions and availability of an appropriate post. It is ordered accordingly. The aforesaid exercise shall be completed within a period of 3 (three) months from the date of receipt of a certified copy of this order.

14. Writ petition stands disposed of in terms above.

JUDGE

Comparing Assistant