

(2018) 03 GAU CK 0031
In the Gauhati High Court
Case No : WP(C) 1402 of 2018

BHANIMA KALITA

APPELLANT

Vs

THE STATE OF ASSAM AND 4 ORS.

RESPONDENT

Date of Decision : 14-03-2018

Acts Referred:

Citation : (2018) 03 GAU CK 0031

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. Parag J Saikia, learned counsel for the petitioner. Also heard Mr. K Nayak, learned State counsel for respondent Nos.1 and 3 as well as

Mr. SP Bhattacharjee, learned Standing counsel, Elementary Education Department for respondent Nos.2, 4 and 5.

2. The father of the petitioner, who was serving as a Headmaster of the Paschim Manipur LP School in the Morigaon district died in harness on

12.08.2013. On his death, the petitioner submitted an application for compassionate appointment on 01.11.2013. The said application was given a consideration by the DLC of Morigaon district in its meeting held on 04.08.2014. As per the minutes of the DLC, the application of the petitioner was

rejected on the ground of lack of minimum qualifying marks in HSSLC as per the RTE norms for the post of Assistant Teacher in LP School.

3. It is noticed that in the application form, the petitioner has mentioned that the application is being made for the post of Assistant Teacher in LP

School. From the said point of view, the rejection by the DLC cannot be faulted with, inasmuch as, the DLC has considered the petitioner against the

post of Assistant Teacher and found that she does not meet the required qualifying criteria. But however, the law of compassionate appointment is

that a consideration is required to be given against any available vacant post to which the concerned applicant may be qualified for. The indication

given in the application is a mere desire which may either be accepted or rejected but on the same being rejected it cannot be a case that the

application shall not be considered for any other suitable post to which the applicant may be qualified for.

4. A contrary view if taken in the view of this Court would be against the spirit of the concept of compassionate appointment. Accordingly, it is

directed that the application of the petitioner for compassionate appointment made on 01.11.2013 be again placed before the DLC of Morigaon district

for fresh consideration against any available post for which the petitioner would be duly qualified for.

5. Accordingly, it is directed that the same be placed before the next available DLC of the Morigaon district as indicated above.

6. In terms of the above, this writ petition stands disposed of.