
(2016) 12 GAU CK 0048
In the Gauhati High Court
Case No : WP(C) No. 6829 of 2015

Debashis Esh

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision : 20-12-2016

Acts Referred:

Citation : (2017) 1 GauLT 281

Hon'ble Judges : Mr. Achintya Malla Bujor Barua, J.

Bench : Single Bench

Advocate : Mr. A.I. Uddin and Mrs. R. Momtaz, Advocates, for the Petitioner; SC, Elementary Education, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. Achintya Malla Bujor Barua, J.—Heard Shri A.I. Uddin, learned counsel for the petitioner. Also heard Shri N. Sarma, learned standing counsel appearing for the respondent Nos. 1, 2 and 4 and Shri S.P. Choudhury, learned counsel appearing for the respondent No.3.

2. The father of the petitioner who served as a head teacher of Lalong Dubi L.P. School in the district of Nagaon, had died-in-harness on 05.03.2007. The petitioner being the elder son of the family, being duly qualified and in order to overcome the immediate hardship of the family, applied before the concerned authority for appointment on compassionate ground. The said application of the petitioner is stated to have made on 08.08.2007, inter alia, praying that he be appointed in any post commensurating with his qualification. The case of the applicant was accordingly referred to the District Level Committee for its consideration.

3. In the minutes of the meeting of the District Level Committee for appointment on compassionate ground of Nagaon held on 23.04.2013, the name of the petitioner finds place at serial No.12 in the category of District Elementary Education Officer, Nagaon. The District Level Committee had duly recommended

the case of the petitioner for appointment as L.P. school teacher. Thereafter, the case of the petitioner was placed before the State Level Committee.

4. In the minutes of the meeting of the State Level Committee for appointment on compassionate ground held on 01.04.2014, the name of the petitioner finds place under the heading "the following candidates are rejected by the State Level Committee on the ground of under qualified". Under the said heading, the name of the petitioner finds at serial No.(c). The said rejection of the case of the petitioner in impugned meeting of the State Level Committee held on 01.04.2014, is under challenge in this writ petition.

5. It is the case of the petitioner that this Court in the case of Jiban Thakuria v. State of Assam in WP(C) No.5968/2013 by the judgment and order dated 30.1.2015 held that the application for appointment on compassionate ground is made for any post which would commensurate with the educational qualification of the applicant and such application is not made for any specific post. By relying upon the said judgment and order of this Court, it is the contention of the writ petitioner that the writ petitioner had not made his application for a specific post of L.P. school teacher. It is the case of the petitioner that depending upon the educational qualification of the petitioner, the petitioner may be considered in any suitable vacant post, which may be available for appointment on compassionate basis.

6. In the considered opinion of this court and on the basis of the law laid down by this Court in the aforesaid case of Jiban Thakuria v. State of Assam, the rejection of the case of the petitioner for appointment on compassionate basis on the ground that he is not qualified to be appointed against the post of L.P. school teacher is not sustainable. If the petitioner is not duly qualified to be appointed as an L.P. school teacher, it is incumbent upon the State Level Committee to consider the case of the petitioner for appointment against any suitable vacant post, for which the petitioner is duly qualified.

7. In view of the above, the rejection of the case of the petitioner for compassionate appointment in the minutes of the State Level Committee held on 01.04.2014 is accordingly set aside.

8. The matter is remanded back to the respondent authorities to again place the case of the petitioner before the District Level Committee for its due consideration by taking note that the petitioner may be considered for compassionate appointment against any post for which he is duly qualified. The aforesaid exercise may be carried out by placing the case of the petitioner before the next available District Level Committee in the district of Nagaon.

9. The District Level Committee upon the matter be placed would give it due consideration as per law.

10. With the above observation, this writ petition is disposed of.