

(2020) 11 GAU CK 0045
In the Gauhati High Court
Case No : Writ Petition (C) No. 6934 Of 2017

Ranajyoti Payum

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 27-11-2020

Acts Referred:

Citation : (2020) 11 GAU CK 0045

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : J Payeng

Final Decision : Allowed

Judgement

1. Heard Mr. J. Payeng, learned counsel for the petitioner. Also heard Mr. S. R. Barua, learned counsel for the respondents no. 2, 4 and 5 and Ms. N.

Phukan, learned counsel for the Elementary Education Department of Government of Assam.

2. The father of the petitioner who was an Assistant Teacher in a school under the Inspector of Schools, Jorhat died in harness on 10.07.2015. On his

death, the petitioner submitted an application on 26.08.2015. Admittedly the qualification of the petitioner is HSSLC passed but the percentage of the

marks obtained by the petitioner is less than 50%. The DLC of Jorhat district in its meeting of 01.09.2016 recommended the petitioner against the post

of assistant teacher in Lower Primary School.

3. The petitioner makes an averment in the writ petition that when the recommendation of the DLC made in favour of the petitioner was placed

before the SLC, the same stood rejected for the reasons that the petitioner does not have 50% in the HSSLC examination.

4. Ms. N. Phukan, learned counsel for the Elementary Education Department justifies the conclusion arrived at by the SLC by referring to the relevant

rules which provides for the post of assistant teacher in a Lower Primary School the minimum qualification is 50% marks in the HSSLC examination.

5. From the said point of view, we do not find any reason to interfere with the rejection of the claim of the petitioner by the SLC. But what we take

note of is that an application for compassionate appointment is not a regular application seeking the appointment against a particular post or in a

particular department. Such applications are made under the scheme for compassionate appointment and it is to be accepted for any available vacant

post for which the applicant may be duly qualified. The various provisions of the office memorandums issued from time to time for compassionate

appointment also indicates the same.

6. From the said point of view, if the petitioner is found not to be eligible for the post of Assistant Teacher, the concerned DLC of Jorhat district may

reconsider the claim of the petitioner against any available vacant post for compassionate appointment to which the petitioner may be duly qualified

for. Accordingly, the matter stands remanded back to the DLC of Jorhat district to be placed in its next meeting by the DI of Schools, Jorhat and upon

it being placed, the DLC shall consider the claim of the petitioner as per rule meaning thereby against any appropriate available vacancy for

compassionate appointment for which the petitioner may be duly eligible and qualified for.

7. Writ petition stands allowed as indicated above.