

(2018) 03 GAU CK 0032
In the Gauhati High Court
Case No : WP(C) 7972 of 2017

SMTI. TAMPA DAS

APPELLANT

Vs

THE STATE OF ASSAM and 4 ORS

RESPONDENT

Date of Decision : 14-03-2018

Acts Referred:

Citation : (2018) 03 GAU CK 0032

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. K. Uddin, learned counsel for the petitioner. Also heard Mr. K. Nayak, learned Addl. Senior Govt. Advocate appearing for the

respondent Nos. 2 and 4 and Mr. N. Sarma, learned counsel for the respondent Nos. 1, 3 and 5.

2. The father of the petitioner who was working as an Asstt. Teacher in the Jacobpur M.E. School in the Hailakandi district died-in-harness on

08.05.2008. On his death, the petitioner submitted an application for compassionate appointment on 17.06.2008. The said application was placed before the DLC of Hailakandi district in its meeting held on 05.03.2010.

3. As per the minutes of 05.03.2010, the petitioner was recommended for the middle school along with two other candidates meaning thereby, three

candidates were recommended. The DLC worked out that the total vacancy in the middle schools for the post of Asstt. Teacher was 50 and

therefore, 5% on being rounded up would be construed to be 3 vacancies and accordingly, 3 candidates were recommended. But the SLC in its

meeting held on 16.06.2016 had rejected the case of the petitioner by stating

the reason to be lack of vacancy/under qualified. As the petitioner was recommended against three available vacancies for compassionate appointment which had been worked out by the DLC, it cannot be construed that his case was rejected for lack of vacancy.

4. As regards the qualification, the petitioner has 50% marks in HSSLC examination. As per the minutes of the SLC of 16.06.2012, a decision was taken that for all such cases prior to 23.08.2010, the minimum educational qualification would be HSSLC pass or graduate and after 23.08.2010, the minimum educational qualification would be HSSLC with 50% marks or graduate for L.P. School and graduate for Upper Primary Schools. It is noticed that the recommendation of the petitioner by the DLC was made on 05.03.2010 i.e. prior to 23.08.2010, therefore, the required qualification of the petitioner has to be construed to be HSSLC pass or graduate and not graduate which is the required qualification after 23.08.2010. As the case of the petitioner was not considered in the appropriate manner as indicated above, it is directed that the Commissioner & Secretary to the Govt. of Assam in the Elementary Education Department shall again place the recommendation of the DLC of Hailakandi of 05.03.2010 made in favour of the petitioner for a fresh consideration.

5. The aforesaid exercise shall be done and placed in the next available SLC. Writ petition stands disposed of accordingly. Interim order, if any, passed earlier stands vacated.