
(2025) 10 GAU CK 1145
In the Gauhati High Court
Case No : WP(C) Of 1563 Of 2023

Sufia Begum Laskar And Anr

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

Date of Decision : 23-10-2025

Acts Referred:

Citation : (2025) 10 GAU CK 1145

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : R. Choudhury, T. J. Mahanta, P. Sarma

Final Decision : Dismissed

Judgement

Devashis Baruah, J

1. Heard Ms. R. Choudhury, the learned counsel appearing on behalf of the Petitioners and Mr. T. J. Mahanta, the learned Senior Advocate who is also the Standing counsel of the Gauhati High Court.

2. The Petitioners herein are aggrieved by the action on the part of the Respondent Authorities in not considering the case of the Petitioners for appointment on compassionate ground upon the demise of the husband of the Petitioner No.1 and the father of the Petitioner No.2.

3. The case of the Petitioners herein is that the Petitioner No.1 is the wife and the Petitioner No.2 is the son of one Arif Uddin Laskar (since deceased) who was working as the Superintendent in the Office of the Principal Judge, Family Court, Cachar, Silchar. Late Arif Uddin Laskar expired on 29.07.2016 leaving behind the Petitioner No.1 and three minor children including the Petitioner No.2. The Petitioner No.1 upon the demise of her husband applied for appointment on compassionate ground but the Respondent Authorities did not respond. The Petitioner No.2 upon attaining the age of majority also applied and such application have also not been considered. It is under such circumstances, the

Petitioners herein have approached this Court by filing the present writ petition.

4. The record reveals that this Court vide an order dated 20.03.2023 issued notice. Pursuant to the issuance of the notice, the Respondent No.3 had filed an affidavit-in-opposition wherein it has been mentioned that the case of the Petitioners would be covered in terms with the notification dated 03.01.2017 issued by the Gauhati High Court on the Administrative Side.

5. This Court while hearing the instant writ petition enquired with Mr. T. J. Mahanta, the learned Standing counsel of the Gauhati High Court as to whether the notification dated 03.01.2017 is presently in force. During the course of the hearing, a notification dated 19.04.2018 issued by the Gauhati High Court on the Administrative Side has been placed by Mr. T. J. Mahanta, the learned Standing counsel wherein it has been mentioned that the notification dated 03.01.2017 is no longer in force in view of the Scheme of the Government as per the notification dated 14.09.2017 and the Office Memorandum dated 31.10.2017 whereby the Government of Assam instead of granting appointment on compassionate grounds have taken the policy to provide compassionate family pension. The said notification is kept on record and marked with the letter "X".

6. Taking into account that almost a decade ago the husband of the Petitioner No.1 and the father of the Petitioner No.2 had expired, this Court enquired with Ms. R. Choudhury, the learned counsel for the Petitioners as to how they are managing for the last one decade. The learned counsel submitted that the Petitioners herein are receiving the compassionate family pension in terms with the Government Notification dated 14.09.2017 and the Office Memorandum dated 31.10.2017.

7. Taking into account that the Petitioners have already taken the benefit in terms with the Government Notification dated 14.09.2017 as well as the Office Memorandum dated 31.10.2017, it is the opinion of this Court that the Petitioners cannot claim appointment on the basis of the notification issued by the Gauhati High Court dated 03.01.2017.

8. Additionally, this Court also finds it pertinent to observe that appointment on compassionate grounds is not a source of recruitment rather it is a deviation from the general provisions providing for appointment to a post following a particular procedure of recruitment. It is also pertinent to observe that right to be appointed on compassionate grounds is not a vested right which can be exercised at any time in future. The Supreme Court in the case of State of West Bengal Vs. Debabrata Tiwari and Others reported in (2025) 5 SCC 712 had laid down the principles on the basis of which the appointment on compassionate grounds can be given. Paragraph Nos. 32 and 33 being relevant are reproduced herein under:

"32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

32.1. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives i.e. to enable the family of the deceased to get over the sudden financial crisis.

32.2. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

32.3. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

32.4. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

32.5. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

33. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the breadearner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, after the crisis which arose on account of death of a breadwinner, has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate appointment would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration."

9. Taking into account the law laid down hereinabove and the facts involved in

the instant case, it is the opinion of this Court that the Petitioners herein are not entitled to claim appointment on compassionate ground for the reason that the Petitioners have already taken the benefit in terms with the Government Notification dated 14.09.2017 and further the Petitioners do not fall within the ambit of the principles laid down by the Supreme Court in the case of Debabrata Tiwari (Supra) to be considered for appointment on compassionate grounds.

10. Considering the above, the instant writ petition therefore stands dismissed. However, in the peculiar facts of the instant case, this Court is not inclined to impose any costs.