

GAHC010005102022



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WP(C)/229/2022

SALEH AHMED MAZUMDER
S/O LATE NURUL ISLAM MAZUMDER,
VILLAGE AND PO NITYANANDAN PS AND DIST HAILAKANDI, ASSAM
788168

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION DEPARTMENT (ELEMENTARY) DISPUR,
GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI 19

3:THE STATE LEVEL COMMITTEE (SLC) FOR COMPASSIONATE
APPOINTMENT

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI 06

4:THE DISTRICT LEVEL COMMITTEE (DLC)
HAILAKANDI FOR COMPASSIONATE APPOINTMENT
REPRESENTED BY THE DEPUTY COMMISSIONER
HAILAKANDI
ASSAM
788151

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI
ASSAM 78815

Advocate for the Petitioner : MR. S B LASKAR

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 28-02-2022

Heard Mr. S.B. Laskar, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned counsel for the respondents sNo.1, 2 and 5 being the authorities under the Elementary Education Department of the Govt. of Assam and Mr. Girin Pegu, learned counsel for the respondents No.3 and 4 being the Chief Secretary to the Govt. of Assam and Deputy Commissioner, Hailakandi.

2. The father of the petitioner Nurul Islam Mazumder who was an Assistant Teacher in the Kal L.P. School in the Hailakandi district died in harness on 05.09.2005. On his death, the petitioner submitted an application for compassionate appointment on 06.02.2006. On 06.02.2006 when the application was made the petitioner was a minor about 13 years 1 month and 5 days. The said application was placed before the DLC of Hailakandi district and for the first time the same was placed in its meeting dated 05.10.2021. The DLC of Hailakandi district rejected the application of the petitioner on the ground that at the time of submission of the application, he was 13 years 1 month and 5 days old.

3. The Supreme Court in *N.C. Santhosh vs. State of Karnataka and Ors.* reported in (2020) 7 SCC 617 in paragraph 19 had held that for the

compassionate appointment the norms prevailing on the date of consideration of the application would be relevant. On 05.10.2021 when the application of the petitioner was considered he was not a minor although at the time of submission of the application he may have been so.

4. From such point of view, we interfere with the rejection made by the DLC of Hailakandi district in the meeting of 05.10.2021 and remand the matter back to be placed before the DLC of Hailakandi district for a fresh consideration as per law.

5. Writ petition stands allowed as indicated above.

JUDGE

Comparing Assistant