

GAHC010202292022



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

Case No. : WP(C)/6548/2022

DIPANKAR DAS
S/O LT. BHUPEN CHANDRA DAS, R/O VILL-KHUTABARI, P.O.-BAGDABA,
P.S.-DHUPTHORA, DIST-GOALPARA (ASSAM)

VERSUS

THE STATE OF ASSAM AND 5 ORS.
THE CHIEF SECRETARY TO THE GOVT. OF ASSAM AND CHAIRMAN OF
THE STATE LEVEL COMMITTEE, DISPUR, GUWAHATI-781005, ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-781005
ASSAM

3:THE DIRECTOR
ELEMENTARY EDUCATION DEPARTMENT
KAHILIPARA
GUWAHATI-781019
ASSAM

4:THE DEPUTY COMMISSIONER
GOALPARA DISTRICT
AND CHAIRMAN OF THE DLC
GOALPARA
ASSAM

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
P.O.-GOALPARA
DIST-GOALPARA
ASSAM

6:THE DISTRICT LEVEL SELECTION COMMITTEE FOR COMPASSIONATE
APPOINTMENT
P.O.-GOALPARA
DIST-GOALPARA
(ASSAM

Advocate for the Petitioner : MR. S SAHU

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

30.09.2022

Heard Mr. S. Sahu, learned counsel for the petitioner. Also heard Mr. G. Pegu, learned counsel for the respondent nos.1, 4 & 6 and Mr. Ganesh Pegu, learned counsel for the respondent nos.2, 3 & 5.

2. Considering the nature of grievance projected by the petitioner, the writ petition is taken up for disposal at the Motion stage.

3. The petitioner is before this Court for the third time. The first writ petition being WP(C) No.8027/2004 was disposed of vide order dated 06.12.2004 by directing the respondent authority concerned to consider the case of the petitioner for compassionate appointment in the light of the Office Memorandum dated 28.02.2003. When the case of the petitioner was taken up for consideration, in terms of the aforesaid direction, the authorities concerned took the view that the petitioner filed his application belatedly and therefore, on that

ground the same was rejected. Aggrieved, the petitioner filed his second writ petition namely WP(C) No.927/2022 which again was disposed of vide judgment dated 15.02.2022 with a finding that the petitioner had filed his representation/application prior to 06.12.2004 and therefore, the respondent authorities were required to re-consider the case of the petitioner.

4. Pursuant to the direction in the second writ petition, the case of the petitioner was considered in the District Level Committee (DLC) meeting held on 03.06.2022, wherein it was observed that his case for compassionate appointment be kept pending since there were lack of requisite numbers of vacancy position under the establishment of the District Elementary Education Officer, Goalpara.

5. The learned counsel for the petitioner submits that as per the Office Memorandum dated 01.06.2015 more particularly at Clause 15, it is provided that if sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the Administrative Department/Office to take up the matter with other Departments/Offices of the Government to provide appointment on compassionate grounds to those in the waiting list. He therefore, submits that the case of the petitioner may be considered in any other establishments for any post to which he is found to be qualified in terms of the said Office Memorandum. The learned counsel has also relied upon the order dated 12.08.2022 passed in WP(C) No.5194/2022 (Krishna Kanta Das vs. State of Assam and 3 Others) (Annexure-11) to contend that the case of the instant petitioner being similar, the writ petition be disposed of in similar lines.

6. In view of above, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner, in terms of Clause 15 of the Office Memorandum dated 01.06.2015 issued by the Personnel Department, Government of Assam.

JUDGE

Comparing Assistant