GAHC010209012025

2026:GAU-AS:16742

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

Case No. : WP(C)/5515/2025

MD SAMSUDDIN AHMED
S/O LT MAKIBUR RAHMAN R/O BECHIMARI PO OUTOLA PS MANGALDOI DIST DARRANG ASSAM PIN 785425

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUTH THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM EDUCATION DEPTT DISPUR GUWAHATI 6

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHILIPARA GUWAHATI 19

3:THE DISTRICT LEVEL SELECTION COMMITTEE OF DARRANG DISTRICT MANGOLDOI
FOR SELECTION OF CANDIDATES FOR COMPASSIONATE APPOINTMENT REP BY ITS CHAIRMAN CUM DIST COMMISSIONER DARRANG PO MANGALDOI PS MANGALDOI DIST DARRANG MANGALDOI ASSAM PIN 784125

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER DARRANG
MANGALDOI PO AND PS MANGALDOI DIST DARRANG ASSAM PIN 784125

5:THE DEPUTY INSPECTOR OF SCHOOLS DARRANG
MONGALDOI PO AND PS MONGALDOI DIST DARRANG ASSAM PIN 784125

6:THE STATE LEVEL SELECTION COMMITTEE
FOR SELECTION OF CANDIDATES FOR APPOINTMENT ON COMPASSIONATE GROUND REP BY ITS CHAIRMAN CUM CHIEF SECRETARY TO GOVT OF ASSAM PIN 78130

Advocate for the Petitioner : MR A A DEWAN, MS P DEKA,MR H A RASHID,MR. KHAIRUL ISLAM

Advocate for the Respondent : GA, ASSAM, SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 11.11.2026

Heard Mr. A.A. Dewan, learned counsel for the petitioner; Mr. A. Phukan, learned Standing Counsel, Elementary Education Department for the respondent nos. 1, 2, 4 & 5; and Ms. S. Konwar, learned Junior Government Advocate, Assam for the respondent nos. 3 & 6.

2. It is case of the petitioner that the father of the petitioner, Late Makibur Rahman was serving as an Assistant Teacher at Kaharpur Lower Primary School when he died in-harness on 23.06.1995 leaving behind eight sons and two daughters, apart from two surviving wives. The petitioner applied for a Next-of-Kin Certificate in the Office of the District Commissioner, Darrang in the year 2023 and after processing the application, the District Commissioner, Darrang issued a Next-of-Kin Certificate on 07.12.2023 enlisting the name of the petitioner amongst eleven nos. of next-of-kin of the deceased, Late Makibur Rahman.

3. It is stated that the petitioner passed the Higher Secondary Living Certificate [HSLC] Examination in the year 1995 and the Higher Secondary [HS] Examination in the year 1999.

4. The further case of the petitioner is that he submitted an application before the Deputy Inspector of School, Mangaldoi within a year from the date of death of his father seeking his appointment on compassionate ground and the Deputy Inspector of Schools, Mangaldoi forwarded the said application to the Director of Secondary Education, Assam by an Office Letter dated 04.03.1996. As no positive response was received in the interregnum during the period from 1996 to 2023, the petitioner submitted a fresh Representation on 30.08.2023 before the District Commissioner, Darrang seeking consideration of his application for appointment on compassionate ground in reference to the death of his father in-harness on 23.06.1995. After receipt of the petitioner's Representation, it was placed before the District

Level Committee [DLC] on 16.12.2023. In its Meeting held on 16.12.2023, the DLC considered the case of the petitioner for appointment on compassionate ground and decided to forward the case of the petitioner to the Government for further necessary action.

5. In support of his case, the learned counsel for the petitioner has referred to a decision of the Hon'ble Supreme Court of India in **Canara Bank vs. Ajithkumar G.K., 2025 INSC 184**, to contend that lapse of time would be a major factor for denying compassionate appointment where the claim is lodged belatedly. But, the petitioner had lodged his claim within time immediately after the death of the father of the petitioner and therefore, lapse of time cannot be assigned as a ground of rejection of the case of the petitioner for consideration of his appointment on compassionate ground.

6. I have considered the case projected by the writ petitioner along with the materials on record.

7. After the application, stated to have been submitted by the petitioner in the year 1995, the subsequent representation was filed by the petitioner seeking consideration of his prayer for appointment on compassionate grounds on 30.08.2023. When after the submission of his initial application in the year 1995, the respondent authorities did not proceed for consideration of the case of the petitioner for appointment on compassionate ground for more than twenty-seven years, the petitioner is seen to have waited with an expectation that the respondent authorities would consider his case for appointment favourably for more than twenty-seven years to renew his prayer for appointment on compassionate ground by filing a representation on 30.08.2023. Such expectation of the petitioner is based on the premise that there were some exchange of communication among the respondent authorities in the matter of his application. Admittedly, the petitioner kept quiet for more than twenty-seven years to submit his representation in the year 2023 on the premise that there were exchange of some communication among the respondent authorities. Such exchange of communication cannot be held to have extended the cause of action.

8. In one of the earlier decisions of the Hon'ble Supreme Court in **Umesh Kumar**

Nagpal vs. State of Haryana, [1994] 4 SCC 138, the Hon'ble Supreme Court has observed that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That the object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

9. Upon consideration of a number of decisions in the matter of appointment on compassionate ground, the Hon'ble Supreme Court in the case of **State of West Bengal vs. Debabrata Tiwari and others, [2025] 5 SCC 712**, has culled out the following principles :-

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

9.1. The Hon'ble Supreme Court answering the question whether applications for compassionate appointment could be considered after a delay of several years, has observed that for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. The Hon'ble Court has inter-alia observed that Courts are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government

employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.

10. The father of the petitioner expired on 23.06.1995, that is, more than thirty-one years earlier. The object and purpose of framing a policy for appointment on compassionate ground is to enable the family of a deceased Government employee to tide over the sudden crisis by providing a gainful employment to one of the dependents of the deceased who is eligible for such employment. Mere death of an employee in-harness does not entitle his family to such source of livelihood. The compassionate appointment is not a vested right which can be extended at any time after the death of a government servant. The compassionate appointment is an exception to the established proposition that appointment to any public post in the service of the State has to be made on the basis of the principles embedded in Article 14 and Article 16 of the Constitution of India.

11. In the case in hand, after the death of his father in-harness on 23.06.1995, the petitioner submitted his application for his appointment on compassionate ground in the year 1995 itself. Thereafter, the petitioner did nothing further to pursue the matter, on the pretext that there were exchange of communications among the respondent authorities, till 30.08.2023 to submit another representation. It is only after lapse of more than thirty years since 23.06.1995, the petitioner has approached this Court by the present writ petition seeking a writ in the nature of mandamus against the State respondents. This Court is of the considered view that such an approach, after prolonged delay, disentitles the petitioner to the discretionary relief under Article 226 of the Constitution of India.

12. In the above fact situation obtaining in the case, the decision in **Ajithkumar G.K.** [supra] is found to be no assistance to the cause of the petitioner.

13. Having noticed that the writ petitioner has approached this Court belatedly after more than thirty years seeking a direction to the respondent authorities for consideration of his case on compassionate ground, the writ petition is found to have been suffered from

abnormal delay and laches and therefore, the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No cost.

Ananta Konwar
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JUDGE

Comparing Assistant