

GAHC010010582024



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

Case No. : WP(C)/262/2024

RAM BAHADUR CHETRY
S/O- LATE DHAN BAHADUR CHETRY, R/O- VILL.- P.W.D. COLONY,
KHERONI, P.O. AND P.S. KHERONI, DIST. KARBI ANGLONG (WEST),
ASSAM, PIN- 782480.

VERSUS

KARBI ANGLONG AUTONOMOUS COUNCIL AND 8 ORS
REPRESENTED BY ITS CHIEF SECRETARY, P.O. DIPHU, DIST. KARBI
ANGLONG (W), ASSAM, PIN- 782460.

2:THE DEPUTY SECRETARY
DEPARTMENT OF PERSONNEL-B
KARBI ANGLONG AUTONOMOUS COUNCIL
P.O. DIPHU
DIST. KARBI ANGLONG (W)
ASSAM
PIN- 782460.

3:THE ADDITIONAL CHIEF ENGINEER
P.W.D.
R AND B) HILLS
ASSAM
DIPHU
P.O. DIPHU
DIST. KARBI ANGLONG
ASSAM
PIN- 782460.

4:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT

KARBI ANGLONG AUTONOMOUS COUNCIL
P.O. DIPHU
DIST. KARBI ANGLONG (W)
ASSAM
PIN- 782460.

5:THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPARTMENT (R AND B)
BAITHALUNGSO DIVISION
P.O. BAITHALUNGSO
PIN- 782460
DIST. KARBI ANGLONG (W)
ASSAM

6:THE ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS)
KHERONI SUB-DIVISION
P.O. KHERONI
DIST. KARBI ANGLONG (W)
ASSAM
PIN- 782448.

7:THE DEPUTY COMMISSIONER-CUM-CHAIRMAN

DISTRICT LEVEL SELECTION COMMITTEE
COMPASSIONATE APPOINTMENT
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
P.O. DIPHU
DIST. KARBI ANGLONG (W)
ASSAM
PIN- 782460.

8:THE CHIEF SECRETARY-CUM-CHAIRMAN

STATE LEVEL COMMITTEE
COMPASSIONATE APPOINTMENT
GOVT. OF ASSAM
P.O. ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006.

9:THE STATE OF ASSAM

REPRESENTED BY THE SECRETARY
PUBLIC WORKS DEPARTMENT
GOVT. OF ASSAM

DISPUR
GHY-6

Advocate for the Petitioner : MR. S UPADHAY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 22-01-2024

Heard Mr. S. Upadhyay, learned counsel for the writ petitioner. Also heard Mr. J. Chutia, learned standing counsel, KAAC appearing for the respondent Nos. 1, 2, 3, 5 and 6, Mr. R. Dhar, learned standing counsel, PWD appearing for the respondent No. 4 and Mr. A. Chakraborty, learned Govt. Advocate, Assam appearing for the respondent Nos. 7 to 9.

This writ petition pertains to the prayer made by the petitioner for appointment on compassionate ground. It appears that the father of the petitioner died-in-harness on 12-10-2015, while he was working as a Night Chowkidar in the office of the Assistant Executive Engineer, Public Works Department (Roads), Kheroni Sub-Division in the district of Karbi Anglong (West). At the time of death of petitioner's father, he was a minor, aged about 15 years. Notwithstanding the same, on 07-12-2015, an application was submitted by the petitioner for appointment on compassionate ground. However, the same was not considered apparently due to the minority of the petitioner. The petitioner had earlier approached this Court by filing W.P.(C) No. 302/2021 ventilating his grievance in the matter. The writ petition was disposed of by the order dated 12-03-2021 with a direction upon the respondents to place the application of the petitioner for appointment on compassionate ground before the concerned District Level Committee (DLC) in its next meeting. When no such action was

taken in the matter, the petitioner has approached this Court for the second time by filing the writ petition seeking a similar order.

It is to be noted herein that the scheme for appointment on compassionate ground has been withdrawn by the State of Assam in the year 2017. As such, holding of DLC for processing application for compassionate appointments, as on the date of the order dated 12-03-2021, might not have arisen in the eyes of law. However, it appears that the said aspect of the matter was not brought to the notice of the learned Single Judge, as a result of which, the order dated 12-03-2021 was passed in its present form. Be that as it may, the undisputed fact in this case is that at the time of death of his father, the petitioner was a minor and therefore, he was not eligible for being appointed in any Govt. job. That apart, as per the standing Govt. circular holding the field at the relevant time, an application seeking appointment on compassionate ground had to be made within a period of one year from the date of death of the deceased Govt. employee, failing which, the same would not be entertained. However, in the present case, although the application was filed by the petitioner within one year, yet, since the petitioner was minor on the date of submission of application, the same could not have been considered by the authorities. The petitioner had attained majority after a lapse of nearly 03 years but by then, his application was barred by time.

In a decision of the Supreme Court rendered in the case of ***State of Manipur Vs. Md. Rajaodin*** reported in **2003 (7) SCC 511**, it was observed that in the absence of any circulars by the State permitting a minor to submit application for appointment on compassionate ground upon attaining majority, several years after the death of the Govt. employee, no such application will be permissible. By relying upon the said decision, this Court had passed order dated 12-12-2023 in **W.P.(C) No. 6916/2023** in the case of

Tapan Saikia Vs. Chief Secretary -cum- SLC for Compassionate Appointment & Ors. holding that a belated application, seeking appointment on compassionate ground by a person who was minor at the time of demise of the Govt. employee, would not be maintainable. It was also observed that after several years had passed since the demise of the Govt. servant, the element of compassion would not be present in such a case for making appointment on compassionate ground. Having regard to the peculiar facts and circumstances of the case, this Court does not find any justifiable ground to adopt a different approach in the present case.

It has been reiterated time and again that appointment on compassionate ground is not a vested right but a gesture of compassion, shown by the State, so as to mitigate the immediate financial hardship arising due to the sudden demise of the sole bread earner of the family. Therefore, such an application has to be filed and considered promptly by taking note of the element of compassion and immediacy factor involved therein, which in the opinion of this Court is totally absent in this case.

For the reasons stated hereinabove, this writ petition is held to be devoid of any merit and the same is accordingly dismissed.

JUDGE

GS

Comparing Assistant