

GAHC010008882026



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

Case No. : WA/139/2026

SRI PALASH SWARGIARY
SON OF LATE MONIRAM SWARGIARY,
AGED ABOUT 32 YEARS,
RESIDENT OF VILLAGE-SINGRA,
P.O.- GARARTARY, P.S.- SARTHEBARI,
IN THE DISTRICT OF BARPETA,
ASSAM, PIN-781311

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE STATE LEVEL COMMITTEE (SLC)
REPRESENTED BY ITS CHAIRMAN THE CHIEF SECY.
TO THE GOVT. OF ASSAM
DISPUR GUWAHATI 06

3:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
INDUSTRIES AND COMMERCE DEPTT.
ASSAM
DISPUR GUWAHATI 06

4:THE GENERAL MANAGER

DIST. INDUSTRIES AND COMMERCE CENTRE
BARPETA ASSAM.

5:THE DIST. LEVEL CIMMITTEE (DLC)
BARPETA
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
BARPETA

For the appellant : Mr. D. Sarmah, Advocate

For the respondents : Ms. S. Sarma,
Govt. Advocate, Assam

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

01-06-2026

(Ashutosh Kumar, C.J.)

We have heard Mr. D. Sarmah, learned Advocate for the appellant and Ms. S. Sarma, learned Government Advocate, Assam for the respondents.

The appellant, who is the son of a Grade-IV employee, who died-in-harness sometimes in the year 2014, is aggrieved by the decision of the learned Single Judge in rejecting his claim for compassionate appointment merely on the ground of 11 years having been passed after the death of his father.

The appellant, immediately after the death of his father, had applied for compassionate appointment. The District Level Committee (DLC), Barpeta had recommended his case for appointment on 25.02.2016 against a single vacant post which occurred in the year 2015 relying on various circulars of the government and some of the

judgments of this Court. The recommendation of the DLC was forwarded to the State Level Committee (SLC) which rejected such resolution of the DLC in the year 2020 primarily on the ground of lack of vacancies under the compassionate appointment quota.

The appellant had challenged such decision of the SLC before this Court vide WP(C) 1853/2020, wherein a direction was issued by this Court to the SLC to re-consider the case of the appellant afresh based on the DLC's recommendation and also by applying the Office Memorandum dated 02.03.2009 within a period of 45 days.

Pursuant to such a direction, the SLC again considered the case of the appellant, but rejected it in the year 2023 reiterating the stand that there was no post vacant within the 5% ceiling limit for compassionate appointment in Class-III and IV posts, which decision was as per the Office Memorandum dated 02.03.2009.

Without losing heart, the appellant again approached this Court vide WP(C) 1162/2024, challenging the second rejection by the SLC, but, by that time, 11 years had already passed by and the learned Single Judge did not entertain the petition in this instance.

The contention of the appellant is that no doubt passage of time is an important factor, but if the fault is not on part of the applicant, the principle of law evolved with respect to compassionate appointment, should not be applied in a straight jacket manner. He has submitted that in accordance with the circular, if there is no post vacant within the ceiling limit meant for compassionate appointments, some arrangement is made for considering the case of such persons in the subsequent

vacancy within the limit.

Ms. S. Sarma, learned Government Advocate, Assam for respondent Nos.1 to 3 shall respond to the afore-noted argument and, if possible, would bring on record the relevant circulars on which the appellant has based his argument.

The affidavit shall be filed on or before the next date.

Re-notify on **12.08.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant