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2026:GAU-AS:707

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

Case No. : WP(C)/2442/2025

ABDUL KADIR BARLASKAR
S/O- LATE ABDUL MUQIT BARLASKAR, R/O- VILL- RANGAUTI PT II, PO-
RANGAUTI, DIST- HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
DEPTT OF HOME AND POLITICAL DISPUR, GHY- 06

2:THE STATE LEVEL COMMITTEE ON COMPASSIONATE APPOINTMENT
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY-07

4:THE DISTRICT LEVEL COMMITTEE FOR COMPASSIONATE
APPOINTMENT
REP. BY ITS CHAIRMAN CUM DISTRICT COMMISSIONER
HAILAKANDI
P.O AND DIST- HAILAKANDI
ASSAM
PIN-788151

5:THE SUPERINTENDENT OF POLICE
HAILAKANDI
P.O AND DIST- HAILAKANDI
PIN-788151

6:THE CHIEF ENGINEER
ASSAM
WATER RESOURCE DEPARTMENT
CHANDMARI
GHY-03

7:THE EXECUTIVE ENGINEER
WATER RESOURCE DIVISION
HAILAKANDI
P.O AND DIST- HAILAKANDI
PIN-78815

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR,MR A K DAS

Advocate for the Respondent : GA, ASSAM, SC, WATER RESOURCE

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 21-01-2026

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Mr. J.K. Goswami, learned Addl. Sr. Govt. Advocate, Assam appearing for the State respondents.

2. The petitioner in the present writ petition has prayed for a direction upon the respondent authorities to place his case before the State Level Committee (SLC) for consideration of his claim for appointment on compassionate grounds in terms of the recommendation made in his favour by the jurisdictional District Level Committee (DLC) in its meeting held on 19-09-2023.

3. The father of the petitioner Abdul Muquit Barlaskar, while serving as Sub-Engineer Grade-II in the establishment of the respondent No. 7, had died-in-harness on 10-05-1999. The petitioner being the son of Abdul Muquit Barlaskar submitted an application on

28-06-1999 before the respondent authorities praying for consideration of his case for appointment on compassionate grounds. The application of the petitioner not being considered, the petitioner had approached this Court by way of filing a writ petition being W.P.(C) No. 8580/2003. A Coordinate Bench of this Court vide order dated 01-11-2003 was pleased to dispose of the said representation with a direction to the respondent authorities to consider the case of the petitioner in terms of the scheme as notified vide OM dated 09-09-1983 and pass appropriate order. It is seen that the case of the petitioner was considered by the jurisdictional DLC in its meeting held on 19-09-2023. The said Committee in absence of vacancies in the establishment of the respondent No. 7, recommended his case for appointment as UB Constable in the establishment of the Superintendent of Police, Hailakandi. The said recommendation was, thereafter, required to be placed before the SLC for further consideration. However, before the recommendation made in favour of the petitioner by the jurisdictional DLC could be placed before the SLC, the respondent authorities had issued an OM dated 18-09-2024, reviewing the scheme for appointment of a family member of a Government employee on compassionate grounds. In terms of the said OM, it was directed that the Administrative Department/ Authority shall not place before the SLC/ DLC cases of any candidates for appointment on compassionate grounds. The said decision was to be applied in case of heirs of the employees who died-in-harness prior to 31-03-2017. The petitioner being aggrieved by non-consideration of his case by the SLC, has approached this Court by way of instituting the present proceeding praying for the reliefs noticed, hereinabove.

4. Mr. Khan, learned counsel for the petitioner by reiterating the facts noticed,

hereinabove, has submitted that the delay occasioning in considering the case of the petitioner being not attributable to him, the respondent authorities were duty bound to consider the recommendation made in his favour by the jurisdictional DLC and ought to have placed the same before the SLC immediately in terms of the policy holding the field at the relevant point of time. Mr. Khan has further submitted that the OM dated 18-09-2024 was the subject matter of challenge before this Court in the proceeding of the W.P. (C) No. 342/2025 and other analogous matters and a Coordinate Bench of this Court had vide order dated 03-04-2025 had directed for consideration of the cases of the petitioners, therein, by the jurisdictional DLC/ SLC on merit by taking into consideration the various guidelines as existing prior to 01-04-2017. Mr. Khan submits that the petitioner being similar situated like the petitioners in W.P.(C) No. 342/2025, a similar direction as passed by the Coordinate Bench of this Court vide order dated 03-04-2025 is also required to be passed in respect of the present petitioner.

5. Per contra, Mr. J.K. Goswami, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondents submits that the father of the petitioner having died-in-harness on 10-05-1999, the immediacy required to be considered for appointment on compassionate grounds is lost in respect of the claim made by the petitioner and the claim has been rendered a stale one. He further submits that this Court would be pleased not to issue any direction for consideration of the claim made by the petitioner in the present proceeding for appointment on compassionate grounds. Mr. Goswami submits that the competent authority had withdrawn the scheme of appointment on compassionate grounds vide issuance of OM dated 18-09-2024. He submits that the said OM not being

under challenge in the present writ petition, no further direction is called upon to be passed with regard to further consideration of the case of the petitioner for appointment on compassionate grounds. Mr. Goswami by referring to the delay occasioning in the matter since the date of the father of the petitioner has by relying on a decision of the Hon'ble Supreme Court in the case of ***State of W.B. Vs. Debabrata Tiwari & Ors.*** reported in ***(2025) 5 SCC 712*** submitted that the petitioner is not entitled to a direction for consideration of his case for appointment on compassionate ground, at this stage.

6. I have heard the learned counsel for the parties and also perused the materials brought on record.

7. The case of the petitioner pursuant to the recommendations made by the jurisdictional DLC in his favour, was required to be placed before the SLC for further consideration. However, before the same could be so placed, the respondent authorities had issued the OM dated 18-09-2024 by which the scheme of appointment on compassionate grounds was withdrawn and it was provided that no application for appointment on compassionate grounds shall be considered and/ or placed before the constituted SLC and/ or the jurisdictional DLC. The petitioner projects in the present writ petition that he was denied of a due consideration of his case for appointment on compassionate grounds and accordingly, submits that in-spite of the delay occasioning in the matter, respondents are required to be directed to consider his case for appointment on compassionate grounds. The petitioner in this connection has relied upon the order dated 03-04-2025 passed by the Coordinate Bench of this Court in W.P.(C) No. 342/2025 (***Abdul Qudir Baksi Vs. State of Assam & Ors.***). This Court has perused the order

dated 03-04-2025 and finds that in the said cases challenge was to the OM dated 18-09-2024. The Coordinate Bench of this Court, appreciating the concession made by the Government before it to the effect that all cases pending before the Court challenging the impugned OM dated 18-09-2024 shall be considered by the concerned authorities on merit, proceeded to pass the following directions:

“9. In view of the consent of the learned counsels for the parties, all the writ petitions that are pending as on today, i.e., 03.04.2025, in the Gauhati High Court, which have put to challenge the impugned OM dated 18.09.2024, are to be decided as follows:-

(i) All the applications for compassionate appointment submitted by the petitioners shall be considered and disposed of by the concerned DLC/SLC on merit, by taking into consideration the various guidelines prior to 01.04.2017, laid down by the State Government for compassionate appointment and the judgments of the Hon'ble Supreme Court and the High Court. Consequently, the rejection of all compassionate appointments by the DLC/SLC, which have been put to challenge and are pending in the Gauhati High Court as on 03.04.2025, are set aside.

(ii) The entire process for considering the various applications for compassionate appointment and the decision to be taken in each case by the concerned authorities, should be completed within a period of six months from the date of receipt of a certified copy of this order by the concerned District Commissioner, who is also the Chairman of the DLC, if the matter pertains to the DLC. In other cases, the Chief Secretary to the Government of Assam, who is the Chairman of the SLC, if the matter pertains the SLC.”

A perusal of the direction passed by the Coordinate Bench of this Court vide order dated 03-04-2025 would reveal that the same is limited only to the writ petitions pending before this Court wherein the challenge is to the OM dated 18-09-2024. Accordingly, in the present proceeding the OM dated 18-09-2024 being not under challenge, the said direction passed by the Coordinate Bench of this Court vide order dated 03-04-2025 cannot be extended to the petitioner, herein.

8. At this stage, decision of the Hon'ble Supreme Court in the case of State of **Debabrata Tiwari (Supra)** is required to be noticed. The Hon'ble Supreme Court in the said decision had drawn the following conclusions:-

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

i. 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.

ii. 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 dependents 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.

iii. 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.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. 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 bread-earner 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 dependents 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 dependents 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 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.

34. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependents of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter.

35. Considering the second question referred to above, in the first instance, regarding

whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, 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. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities 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. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. 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.

36. Laches or undue delay, the blame-worthy conduct of a person in approaching a Court of Equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, in Lindsay Petroleum Co. v. Prosper Armstrong, [1874] 3 P.C. 221 as under:

“Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute or limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of Justice or injustice in taking the one course or the other, so far as it relates to the remedy.”

37. Whether the above doctrine of laches which disentitled grant of relief to a party by Equity Court of England, could disentitle the grant of relief to a person by the High Court in the exercise of its power under Article 226 of our Constitution, came up for consideration before a Constitution Bench of this Court in Moon Mills Ltd. v. M. R. Meher, President, Industrial Court, Bombay, AIR 1967 SC 1450. In the said case, it was regarded as a principle that disentitled a party for grant of relief from a High Court in the exercise of its discretionary power under Article 226 of the Constitution.

38. In State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566 this Court restated the principle articulated in earlier pronouncements in the following words:

“9. ... the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the Petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this Rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an

important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

39. While we are mindful of the fact that there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution, ordinarily, a writ petition should be filed within a reasonable time, vide Jagdish Lal v. State of Haryana, (1997) 6 SCC 538; NDMC v. Pan Singh, (2007) 9 SCC 278.

40. Further, simply because the Respondents-Writ Petitioners submitted their applications to the relevant authority in the year 2005- 2006, it cannot be said that they diligently perused the matter and had not slept over their rights. In this regard, it may be apposite to refer to the decision of this Court in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, wherein the following observations were made:

"19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time."

9. Applying the said decision of the Hon'ble Supreme Court in the case of **Debabrata Tiwari (Supra)** to the facts of the present case, it is seen that the father of the petitioner had expired on 10-05-1999. The consideration that is now sought to be made in respect of the petitioner herein, for appointment on compassionate grounds is a consideration so required to be made after a lapse of around 26 years. The sense of immediacy in the matter of compassionate appointment in respect of the petitioner has been lost. Such delay is attributable to both the authorities of the State as well as the petitioner; however, entertaining the claim at this point of time would be of no avail, because, admittedly, the petitioner has been able to eke out a living even though he was not favoured with an appointment on compassionate grounds. Accordingly, this Court is of the considered view that it is not a fit case to direct the respondent authorities to consider the claim of the petitioner for appointment on compassionate grounds.

10. In view of the foregoing discussions and conclusions reached herein above by this Court, this Court is of the considered view that the issue involved in the present

proceeding being a stale issue, it would not be permissible for this Court to issue any direction requiring consideration of the case of the petitioner for appointment on compassionate grounds in pursuance to death of his father, in harness, occasioning in the year 1999.

11. In view of the above, this Court having concluded that the scheme for appointment on compassionate grounds, on account of delay so occasioning in the matter having been rendered to be a stale one, no direction in this connection would be called to be issued.

12. Accordingly, the writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant