

GAHC010194122018



2026:GAU-AS:76

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

Case No. : WP(C)/6312/2018

TUNIMA SONOWAL
D/O- GOLAP SONOWAL, R/O- DAHUTIACHUK, P.O- DAHUTIACHUK, P.S
AND DIST- TINSUKIA, ASSAM, PIN- 786125

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, DISPUR,
GUWAHATI- 6

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
PUBLIC WORKS ROADS DEPTT
DISPUR
GUWAHATI- 06

3:THE DEPUTY COMMISSIONER
DIST- TINSUKIA
ASSAM
PIN- 786125

4:THE EXECUTIVE ENGINEER
PWD
TINSUKIA RURAL ROAD DIVISION
TINSUKIA
ASSAM
PIN- 78612

Advocate for the petitioner(s): Mr. H Talukdar

Advocate for the respondent(s): Mr. JK Goswami, Govt. Advocate, Assam

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

05.01.2026

Heard Mr. H Talukdar, the learned counsel appearing on behalf of the petitioner. I have also heard Mr. JK Goswami, the learned Government Advocate who appears on behalf of the respondent Nos.1 and 3. None appears on behalf of the PWD when the matter is called upon.

2. The petitioner herein is aggrieved by the inaction on the part of the respondent authorities in not considering the case of the petitioner for compassionate appointment.

3. From the materials on record, it is seen that the petitioner's father Late Gopal Sonowal was a Grade IV employee, who died in harness on 17.07.2003, leaving behind the petitioner, her mother i.e. the wife of the deceased and two younger sisters of the petitioners. The petitioner initially applied in the year 2004 and on account of non-consideration, the petitioner filed a writ petition before this Court which was registered and numbered as WP(C)No.4455/2014. The said

writ petition was disposed of with a direction to consider the case of the petitioner against the available vacancies. Thereupon, on account of non-consideration, the petitioner has approached this Court by way of filing the present writ petition.

4. It is no longer *res integra* that compassionate appointment is not a regular source of recruitment. It is an exception to the provisions of Article 16 of the Constitution. The Supreme Court in the case of ***State of West Bengal Vs. Debabrata Tiwari & Ors., reported in (2025) 5 SCC 712*** had categorically laid down that 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. Paragraph Nos.32 and 33 of the said judgment being relevant are reproduced hereinunder:

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

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.*

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.*

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.*

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 breadwinner 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."*

5. In the instant case, the petitioner has been able to sustain her livelihood for the last 22 years. It is the opinion of this Court that this is not a fit case wherein directions can be issued for consideration of the case of the petitioner at this stage. Accordingly, this Court does not find any merit in the instant writ petition, for which, the writ petition stands dismissed.

JUDGE

Comparing Assistant