

GAHC010202892023



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

Case No. : WP(C)/5296/2023

BIDISHA BORAH

D/O- LATE MRINAL BORAH, R/O- CHENIKUTHI HILL SIDE, K.K. ROAD, P.O.
SILPUKHURI, P.S. CHANMARI, PIN- 781003, DISTRICT- KAMRUP (M),
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
PUBLIC HEALTH ENGINEERING (PHE) DEPARTMENT, DISPUR, GUWAHATI-
781006

2:THE STATE LEVEL COMMITTEE (FOR COMPASSIONATE APPOINTMENT)
REPRESENTED BY THE CHAIRMAN CUM CHIEF SECRETARY
ASSAM
DISPUR
GUWAHATI- 781006

3:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT (PHE)
WATER
ASSAM
HENDERABARI
GUWAHATI- 781036

4:THE DISTRICT LEVEL COMMITTEE
(FOR COMPASSIONATE APPOINTMENT) REPRESENTED BY THE
CHAIRMAN/DEPUTY COMMISSIONER
KAMRUP (M) AT HENDERABARI
GUWAHATI-36

5:THE SUPERINTENDING ENGINEER

PUBLIC HEALTH ENGINEERING DEPARTMENT (PHE)
GUWAHATI CIRCLE AT HENGERABARI
GUWAHATI-36
DIST. KAMRUP (M) ASSA

Advocate for the Petitioner : MR Z HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

15.09.2023

Heard Shri Z. Hussain, learned counsel for the petitioner, who has made a claim for appointment on compassionate ground.

It is the case of the petitioner that her father Mrinal Borah was working as a Junior Assistant in the Office of the Superintending Engineer PHE, Water, Guwahati Circle and had died in harness on 06.11.2015. The application of the petitioner for appointment on compassionate ground was recommended by the DLC in its meeting dated 01.03.2016. However, the SLC in the meeting dated 14.05.2020 had rejected the case of the petitioner on two grounds, namely, lack of vacancy within 5% cadre strength and not fulfilling requisite educational qualification.

The learned counsel has submitted that subsequently the petitioner has obtained her graduation and the fact that recommendation was made by the DLC gives the impression that the petitioner had made all the requisite qualifications.

Though this Court is not inclined to accept the submission that when a

recommendation is made by the DLC, it is incumbent upon the SLC to mechanically consider the case without examining the fulfillment of the eligibility criteria, this Court is also of the view that even with the existing qualification, whether any exercise was made to consider the case of the petitioner for appointment in any Grade-IV post.

Let notice be issued, returnable by 4 (four) weeks.

Shri I. Kalita, learned counsel representing the PHE Department accepts notice on behalf of the respondent nos. 1, 3 & 5 whereas Ms. M. Bhattacharyya, learned Addl. Senior Government Advocate accepts notice on behalf of the respondent nos. 2 & 4.

Let extra copies of the writ petition be served upon the learned counsel for the respondents by Monday.

JUDGE

Comparing Assistant