

GAHC010184462021



2025:GAU-AS:5546

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

**Case No. : WP(C)/5901/2021**

JAYANTI MEDHI  
W/O LATE PARESH MEDHI, R/O BAHARI SATRA, P.O. BAHARI SATRA, DIST.  
BARPETA, ASSAM, PIN 781302

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND THE SECY. TO THE GOVT.  
OF ASSAM, DEPTT. P.W.D. (ROAD), DISPUR, GHY 6

2:THE CHIEF EXECUTIVE ENGINEER

P.W.D. (ROAD)  
ASSAM  
CHANDMARI  
GUWAHATI 03

3:THE EXECUTIVE ENGINEER

P.W.D. (ROAD)  
ASSAM  
CHANDMARI  
GUWAHATI 03

4:THE DEPUTY COMMISSIONER

BARPETA  
P.O. AND DIST. BARPETA  
ASSAM  
PIN 781301

5:THE CHAIRMAN

SLC  
CUM CHIEF SECRETARY  
ASSAM  
DISPUR  
GUWAHATI-

**Advocate for the Petitioner** : MR K BHUYAN, MR N ISLAM

**Advocate for the Respondent** : GA, ASSAM, MR. J K GOSWAMI (R-5),SC, PWD

**BEFORE**

**HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

Advocate for the petitioner : Shri K. Bhuyan

Advocate for the respondent : Shri JK Goswami, Addl. Sr. GA, Assam  
Ms. S. Sarma, SC-PWD

Date of hearing : **05.05.2025**

Date of Judgment : **05.05.2025**

**JUDGMENT & ORDER**

The instant petition under Article 226 of the Constitution of India has been filed challenging, *inter alia* the rejection of the candidature of the petitioner for appointment on compassionate ground which has been done by the State Level Committee (hereinafter SLC) in its meeting dated 31.12.2018.

2. The projected case of the petitioner, in a nutshell is that her husband, Paresh Medhi, who was working as a Muster Roll Worker in the PWD, had died in harness on 29.02.2016. The petitioner claims that he was also issued an Identity Card No. J/93/12 dated 01.11.1993 and also claims

that his services was regularized. The petitioner claims to be eligible had applied for appointment on compassionate ground on 23.09.2016 and her case was also considered by the District Level Committee (DLC). Thereafter, the matter was taken by the SLC in its meeting dated 31.12.2018 wherein the case of the petitioner has been rejected. It is this action, which is the subject matter of challenge in this writ petition.

3. I have heard Shri K. Bhuyan, learned counsel for the petitioner. I have also heard Shri JK Goswami, learned Additional Senior Government Advocate, Assam and Ms. S. Sarma, learned Standing Counsel, PWD.

4. The learned counsel for the petitioner has submitted that the rejection of the candidature of the petitioner is unreasonable and arbitrary. It is contended that the application for compassionate appointment was made by the petitioner within the prescribed time and therefore, the reason assigned that such application was made after one Syed Imanul Ahmed for a single vacancy would be arbitrary. It is also submitted that recommendation of the case of the petitioner by the DLC would establish that the petitioner has a valid claim for such appointment.

5. *Per contra*, Shri Goswami, learned State Counsel has submitted that the reasons cited for rejecting the case of the petitioner are relevant and germane and therefore, the submission that there is illegality cannot be countenanced. He has also highlighted the aspect of delay in approaching the Court and also the aspect of the claim for any such direction in view of the law laid down by the Hon'ble Supreme Court in a recent case of ***State of West Bengal Vs. Debabrata Tiwari*** reported in ***(2023) SCC Online SC 219***.

6. By endorsing the submission made by the learned State Counsel, Ms. Sarma, learned Standing Counsel, PWD has submitted that from the date of death, more than 9 years have passed and at this stage, a claim for appointment on compassionate ground would not be justified.

7. The rival contentions of the learned counsel for the parties have been duly considered.

8. The materials on record make it clear that the death of the husband of the petitioner was on 29.02.2016 and the rejection by the SLC was of December, 2018. The writ petition itself was instituted in the year 2021. Though the learned counsel for the petitioner has submitted that on 24.05.2019, the representation was filed, apart from there being nothing on record that the said representation was indeed received by the authorities, from the said date also, there is an unexplained delay of more than two and half years as the writ petition was instituted only on 02.11.2021.

9. There is another aspect of the matter with regard to the very objective of the scheme for compassion appointment. The very objective of the scheme, which is an exception to the general mode of recruitment, is to give immediate succor to a family which has lost its sole breadwinner who was a Government servant and such objective would not survive after a gap of more than 9 years.

10. The law on compassionate appointment has been elaborately explained by the Hon'ble Supreme Court in the recent case of **Debabrata Tiwari** (supra). In the said case, almost all the earlier cases on the subject of compassionate appointment have been discussed and the principles have been laid down. It has been reiterated that an appointment on

compassionate ground is a departure from the normal rule and is an exception which is meant only to enable the bereaved family to tie over the sudden financial crisis on the death of a government servant while in service. It has also been clarified that it is not a vested right and the aspect of delay would be of paramount consideration. The relevant portion of the said judgment is extracted hereinbelow-

*“7.2. 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 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.*

*(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.”*

11. On the aspect of delay, the Hon'ble Supreme Court in the aforesaid case of ***Debabrata Tiwari*** (supra), while examining the said aspect from the context of the scheme has also laid down that even if the delay is on account of the authorities, the sense of immediacy is diluted and lost. The relevant part as observed in paragraph 7.5 of the aforesaid judgment is extracted herein below:-

*“7.5. 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."*

12. An appointment on compassionate ground is a departure from the normal mode of recruitment wherein a certain quota (5%) is reserved and the objective is to enable a bereaved family losing their sole breadwinner who was a Government servant to overcome the immediate financial crisis. It has been laid down that such appointment cannot be held to be a matter of any vested right and it is not a source of recruitment.

13. In the instant case, the issue regarding delay is required to be considered *vis-à-vis* the observation made by the Hon'ble Supreme Court in paragraph 7.5 of the case of **Debabrata Tiwari** (supra). It has been clearly laid down that in case of prolonged delay either on the part of the applicant or the authorities, the sense of immediacy is diluted and lost. In view of such law laid down by the Hon'ble Supreme Court, this Court has no other option but to hold that any further direction for consideration of

the case of the petitioner on compassionate ground after a period of more than 9 years from the death of a Government servant would not be in sync with the objective of the scheme for compassionate appointment.

14. Accordingly, this Court is not in a position to grant any relief to the petitioner.

15. The writ petition accordingly stands dismissed.

**JUDGE**

**Comparing Assistant**