



GAHC010045752021

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

**Case No. : WP(C)/1646/2021**

BHASKAR KONWAR  
S/O LATE GOBIN KONWAR, R/O VILL. TIMONA LUNPURIA GAON, P.O.  
LAHOWAL, DIST. DIBRUGARH, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF  
ASSAM, SECONDARY EDUCATION DEPTT., DISPUR, GHY 06

2:THE STATE LEVEL COMMITTEE  
ON COMPASSIONATE APPOINTMENT FOR SECONDARY EDUCATION  
DEPTT. REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI 06

3:THE DIRECTOR OF SECONDARY EDUCATION CUM DIRECTOR OF NON  
FORMAL AND ADULT EDUCATION

ASSAM  
JATIA  
KAHILIPARA ROAD  
GUWAHATI 19

4:THE DIST. LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT  
REPRESENTED BY THE DEPUTY COMMISSIONER  
DIBRUGARH  
P.O. AND DIST. DIBRUGARH  
ASSAM  
PIN 786001

5:THE DIST. ADULT EDUCATION OFFICER



DIBRUGARH  
P.O. AND DIST. DIBRUGARH  
ASSAM  
PIN 78600

Linked Case : WP(C)/7947/2019

SARASWATI SINHA  
D/O- LT KULACHANDRA SINHA  
R/O- VILL AND P.O. BIDYANAGAR  
DIST- KARIMGANJ  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM  
EDUCATION (ELEMENTARY) DEPTT.  
DISPUR  
GHY-6

2:THE STATE LEVEL COMMITTEE (SLC)  
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GHY-06

3:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GHY-19

4:THE DISTRICT LEVEL COMMITTEE (DLC)  
REP. BY ITS CHAIRMAN  
THE DY. COMMISSIONER  
KARIMGANJ  
P.O. AND DIST- KARIMGANJ  
ASSAM  
PIN- 788166

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
KDC  
KARIMGANJ  
P.O. KARIMGANJ  
DIST- KARIMGANJ  
ASSAM  
PIN- 788710



Linked Case : WP(C)/1446/2019

KIRAN MUDOI  
D/O. LT. SATRAN MUDOI  
VILL. NONOI MUDOIONI  
P.O. NONOI  
DIST. NAGAON  
ASSAM-782001.

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
TO BE REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DEPTT. OF PERSONNEL B  
DISPUR  
GUWAHATI-06.

2:THE SECRETARY TO THE GOVT. OF ASSAM

DEPTT. OF HOME  
DISPUR  
GUWAHATI-06.

3:THE STATE LEVEL COMMITTEE (FOR SELECTION ON COMPASSIONATE  
GROUND)

REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-06.

4:THE DISTRICT LEVEL COMMITTEE

REP. BY THE DY. COMMISSIONER  
NAGAON  
P.O. AND DIST. NAGAON  
ASSAM.

5:THE SUPDT. OF POLICE

NAGAON  
P.O. AND DIST. NAGAON  
ASSAM-782001.

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Linked Case : WP(C)/6114/2021

SUHEL ALOM CHOUDHURY  
S/O LT. NASIR UDDIN CHOUDHURY



VILL. RUPAIBALI  
P.O. HAZARIGRAM BAZAR  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS  
TO BE REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT.  
OF ASSAM  
EDUCATION (ELEMENTARY) DEPTT.  
DISPUR  
GUWAHATI 6

2:THE DIRECTOR OF ELEMENTARY EDUCATION DEPTT.

ASSAM  
KAHILIPARA  
GUWAHATI 19  
3:THE DIST. LEVEL COMMITTEE  
CACHAR  
(FOR COMPASSIONATE APPOINTMENT) REPRESENTED BY ITS  
CHAIRMAN/DEPUTY COMMISSIONER  
CACHAR  
P.O. SILCHAR  
DIST. CACHAR  
ASSAM.  
4:THE STATE LEVEL COMMITTEE

REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI 6  
5:THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM

DEPTT. OF PERSONNEL B DEPTT. DISPUR.  
6:THE DIST. ELEMENTARY EDUCATION OFFICER

CACHAR  
P.O. AND DIST. CACHAR  
ASSAM.  
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Linked Case : WP(C)/1562/2018

DILSHAD AHMED LASKAR



S/O. LT. AKMAL UDDIN LASKAR  
R/O. SATSANGA ASHRAM ROAD  
SILCHAR  
P.O. AND P.S. SILCHAR  
DIST. CACHAR  
ASSAM  
PIN-788007

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
WATER RESOURCE DEPARTMENT  
DISPUR  
GUWAHATI-6.

2:THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF PERSONNEL (B)  
DISPUR  
GUWAHATI-6.

3:THE STATE LEVEL COMMITTEE ON COMPASSIONATE APPOINTMENT  
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-6.

4:THE DISTRICT LEVEL COMMITTEE ON COMPASSIONATE APPOINTMENT  
REPRESENTED BY THE DEPUTY COMMISSIONER  
CACHAR  
SILCHAR.

5:THE CHIEF ENGINEER  
WATER RESOURCE DEPARTMENT  
CHANDMARI  
GUWAHATI-3.  
6:THE EXECUTIVE ENGINEER  
SILCHAR WATER RESOURCE DIVISION  
SILCHAR  
DIST. CACHAR  
PIN-788001  
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Linked Case : WP(C)/268/2022

BABUL DAS  
S/O. LT. PADMA DAS  
R/O. SOLMARA  
P.O. JURKOTA



P.S. DHEMAJI  
DIST. DHEMAJI  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE CHIEF SECY. CUM CHAIRMAN OF STATE LEVEL COMMITTEE  
ASSAM  
DISPUR  
GUWAHATI-06.

2:THE COMMISSIONER AND SECY.  
TO THE GOVT. OF ASSAM  
IRRIGATION DEPTT.  
TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-06.  
3:THE DEPUTY SECY.

TO THE GOVT. OF ASSAM  
FINANCE DEPTT.  
ASSAM  
DISPUR  
GUWAHATI-06.  
4:THE DEPUTY COMMISSIONER

DHEMAJI  
DIST. DHEMAJI  
ASSAM.

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Linked Case : WP(C)/1792/2022

SHARIFUL ISLAM AKAND  
S/O. LT. SAFI UDDIN AHMED  
VILL. POKALAGI  
P.O. KAMANDANGA  
P.S. TAMARHAT  
DIST. DHUBRI  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS



TO BE REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DEPTT. OF PERSONNEL (B)  
DISPUR  
GUWAHATI-06.

2:THE COMMISSIONER  
TO THE GOVT. OF ASSAM  
SECONDARY EDUCATION DEPTT.  
DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM  
KAHILIPARA  
GUWAHATI-19.

4:THE DISTRICT LEVEL COMMITTEE (FOR APPOINTMENT ON  
COMPASSIONATE GROUND)  
REP. BY THE DEPUTY COMMISSIONER  
DHUBRI  
P.O. AND DIST. DHUBRI  
ASSAM  
PIN-783301.  
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Linked Case : WP(C)/4114/2019

PANKAJ PHUKON  
S/O- LATE DAMBARU PHUKAN  
R/VILL.- SAFRAI MOHAN GAON  
P.O.- MON-MOHAN  
P.S.- SONARI  
DISTRICT- CHARAIDEO  
ASSAM  
PIN- 785689.

VERSUS

THE STATE OF ASSAM AND 7 ORS.  
REPRESENTED BY THE CHIEF SECRETARY CUM CHAIRMAN  
STATE LEVEL COMMITTEE  
GOVT. OF ASSAM  
DISPUR  
GUWAHATI- 781006.

2:THE ADDITIONAL CHIEF SECRETARY  
GOVT. OF ASSAM



DEPARTMENT OF PERSONNEL

PERSONNEL-B

DISPUR

GUWAHATI-781006.

3:THE COMMISSIONER AND SECRETARY

GOVT. OF ASSAM

EDUCATION (ELEMENTARY) DEPARTMENT

DISPUR

GUWAHATI- 781006.

4:THE DIRECTOR

ELEMENTARY EDUCATION

ASSAM

KAHILIPARA

GUWAHATI- 781019

DIST.- KAMRUP(M)

ASSAM.

5:THE DEPUTY COMMISSIONER CUM CHAIRMAN OF THE DISTRICT

LEVEL COMMITTEE

SIVASAGAR DISTRICT

ASSAM- 785640.

6:THE DEPUTY COMMISSIONER

CHARAIDEO DISTRICT

ASSAM- 785690.

7:THE DISTRICT ELEMENTARY EDUCATION OFFICER

SIVASAGAR DISTRICT

ASSAM.

8:THE DY. INSPECTOR OF SCHOOLS

CHARAIDEO

SONARI- 785690.

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Linked Case : WP(C)/5031/2022

MITHUN ROY

S/O LATE JOGESH CHANDRA ROY

R/O VILL-SOUTH KALACHUP

P.O.-PURBA HARINAGAR

DIST-KARIMGANJ

ASSAM

PIN-788734

VERSUS

THE STATE OF ASSAM AND 4 ORS.





REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM  
EDUCATION (SECONDARY) DEPARTMENT  
DISPUR  
GUWAHATI-6

2:THE STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT  
REPRESENTED BY ITS CHAIRMAN CUM THE CHIEF SECRETARY TO THE  
GOVERNMENT OF ASSAM

DISPUR

GUWAHATI-6

3:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM

KAHILIPARA

GUWAHATI-19

4:THE INSPECTOR OF SCHOOLS

KARIMGANJ DISTRICT CIRCLE

KARIMGANJ

ASSAM

PIN-788710

5:THE DISTRICT LEVEL SELECTION COMMITTEE FOR COMPASSIONATE  
APPOINTMENT

REPRESENTED BY ITS CHAIRMAN CUM THE DEPUTY COMMISSIONER

KARIMGANJ

ASSAM

PIN-788710

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Linked Case : WP(C)/4384/2021

NAVANITA GOGOI  
D/O LATE PREMADHAR GOGOI  
VILLAGE BHAKAT GAON  
PS GHILAMARA  
DIST NORTH LAKHIMPUR  
ASSAM  
787053

VERSUS

THE STATE LEVEL COMMITTEE AND 3 ORS.  
FOR SELECTION ON COMPASSIONATE GROUND  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR GUWAHATI 06

2:THE ADDITIONAL CHIEF SECRETARY



TO THE GOVT OF ASSAM  
DEPARTMENT OF PERSONNEL B. DISPUR GUWAHATI 06  
3:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
EDUCATION DEPARTMENT  
DISPUR GUWAHATI 06  
4:THE DISTRICT LEVEL COMMITTEE

REPRESENTED BY THE DEPUTY COMMISSIONER  
NORTH LAKHIMPUR  
ASSAM  
787001  
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Linked Case : WP(C)/1064/2017

DEEPAL DEY  
S/O LT. DULAL CHANDRA DEY  
S.P. ROAD  
BADARPUR  
P.O. BADARPUR  
DIST- KARIMGANJ

VERSUS

THE STATE OF ASSAM and 4 ORS  
REP. BY THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM  
DEPTT. OF PERSONNEL  
PERSONNEL B  
DISPUR  
GHY-6

2:THE SECRETARY TO THE GOVT. OF ASSAM  
DEPTT. OF P.H.E.  
DISPUR  
GHY-6

3:THE CHIEF ENGINEER  
P.H.E. DEPTT.  
HENGARABARI  
GUWAHATI  
4:THE DISTRICT LEVEL COMMITTEE  
HEADED BY THE DY. COMMISSIONER  
KARIMGANJ  
P.O. and DIST- KARIMGANJ  
5:THE EXECUTIVE ENGINEER  
P.H.E. DIVISION



KARIMGANJ  
P.O. and DIST- KARIMGANJ  
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Linked Case : WP(C)/7761/2022

PRANJIT SARMAH  
SON OF LATE GANGANATH SARMAH

RESIDENT OF VILLAGE- BHOLABARI

P.O.- BHOLABARI  
DISTRICT- LAKHIMPUR

ASSAM  
PIN- 787033

VERSUS

THE STATE OF ASSAM AND 7 ORS  
REPRESENTED BY THE CHIEF SECRETARY CUM CHAIRMAN

STATE LEVEL COMMITTEE  
GOVERNMENT OF ASSAM

DISPUR  
GUWAHATI- 781006.

2:THE ADDITIONAL CHIEF SECRETARY  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONAL PERSONAL-B

DISPUR  
GUWAHATI- 781006.  
3:THE COMMISSIONER AND SECRETARY  
GOVERNMENT OF ASSAM  
EDUCATION (ELEMENTARY) DEPARTMENT

DISPUR  
GUWAHATI- 781006.  
4:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19.  
5:THE DEPUTY COMMISSIONER CUM CHAIRMAN OF DISTRICT LEVEL  
COMMITTEE



LAKHIMPUR  
DISTRICT- LAKHIMPUR  
ASSAM.  
6:THE DEPUTY COMMISSIONER  
LAKHIMPUR  
DISTRICT- LAKHIMPUR  
ASSAM.  
7:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
LAKHIMPUR  
DISTRICT- LAKHIMPUR  
ASSAM.  
8:THE DEPUTY INSPECTOR OF SCHOOLS  
LAKHIMPUR  
DISTRICT- LAKHIMPUR  
ASSAM.  
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Linked Case : WP(C)/3245/2019

DIPAK GOGOI  
S/O LT. LABU RAM GOGOI  
VILL. KHUMTAI  
P.O. KHUMTAI  
DIST.-GOLAGHAT  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY HIGHER EDUCATION  
DEPTT. DISPUR  
GUWAHATI-6

2:CHIEF SECRETARY  
TO THE GOVT. OF ASSAM  
DEPTT. OF PERSONNEL  
PERSONNEL B  
DISPUR  
GUWAHATI-6  
3:THE DIRECTOR OF HIGHER EDUCATION  
KAHILIPARA  
GUWAHATI  
4:THE DISTRICT LEVEL COMMITTEE (DLC)  
HEADED BY THE DEPUTY COMMISSIONER  
GOLAGHAT  
DIST.-GOLAGHAT



ASSAM  
5:THE INSPECTOR OF SCHOOLS  
GOLAGHAT  
ASSAM  
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Linked Case : WP(C)/6798/2022

MALIN NATH  
S/O LATE GANGADHAR NATH  
R/O VILL- PHEHURA KHUWA  
P.O.-BHULUKADOBA  
P.S.-SORBHOG  
DIST- BARPETA (ASSAM)  
PIN-781317

VERSUS

THE STATE OF ASSAM AND 8 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM  
THE CHAIRMAN  
STATE LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND  
DISPUR  
GUWAHATI-6

2:THE COMMISISONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF SCHOOL EDUCATION  
DISPUR  
GUWAHATI-6

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT  
DISPUR  
GUWAHATI-6

ASSAM  
4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF PERSONNEL  
PERSONNEL B  
ASSAM  
DISPUR  
GUWAHATI-6

5:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19

6:THE COMMISSIONER  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT



ASSAM  
PANJABARI  
JURIPAR  
GUWAHATI-37  
7:THE DEPUTY COMMISSIONER  
CUM THE CHAIRMAN  
DISTRICT LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND  
DIST- BARPETA  
ASSAM  
PIN-781301  
8:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
BARPETA  
DIST-BARPETA  
ASSAM  
PIN-781301  
9:THE CHIEF EXECUTIVE OFFICER  
BARPETA ZILLA PARISHAD  
BARPETA  
DIST- BARPETA (ASSAM)  
PIN-781301  
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Linked Case : WP(C)/5883/2021

DEBANANDA BHARALI  
S/O- LT. UPEN BHARALI  
R/O- VILL- GHILAMARA  
DIST.- DHEMAJI

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GHY-06

2:CHIEF SECRETARY  
STATE OF ASSAM  
CUM- CHAIRMAN  
STATE LEVEL SELECTION COMMITTEE  
DISPUR  
GHY-06  
3:PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
IRRIGATION DEPTT.  
DISPUR  
GHY-6



4:COMMISSIONER SECRETARY TO THE GOVT. OF ASSAM  
IRRIGATION DEPTT.  
5:CHIEF ENGINEER  
IRRIGATION DEPTT.  
CHANDMARI  
GHY-03  
6:EXECUTIVE ENGINEER  
IRRIGATION DEPTT.  
DHEMAJI DIVISION  
DHEMAJI  
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Linked Case : WP(C)/7095/2022

KASHMIRI DEKA  
D/O- LATE KHARGESWAR DEKA  
R/O- VILL.- KEOTPARA  
P.S. MANGALDAI  
P.O. JANARAM CHOWKA  
DIST. DARRANG  
ASSAM  
PIN- 784529.

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REPRESENTED BY THE CHIEF SECRETARY  
GOVT. OF ASSAM CUM CHAIRMAN  
STATE LEVEL SELECTION COMMITTEE ON COMPASSIONATE GROUND  
DISPUR  
GUWAHATI-6  
ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HOME AND POLITICAL DEPARTMENT  
DISPUR  
GUWAHATI-6.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF PERSONNEL  
PERSONNEL B  
ASSAM  
DISPUR  
GUWAHATI-6.

4:THE DIRECTOR GENERAL OF POLICE  
ASSAM  
ULUBARI



GUWAHATI-7.  
5:THE DEPUTY COMMISSIONER CUM CHAIRMAN  
DISTRICT LEVEL COMMITTEE ON COMPASSIONATE GROUND  
DIST. BAKSA  
MUSHALPUR  
ASSAM  
PIN- 781372.  
6:THE SUPERINTENDENT OF POLICE  
BAKSA (BTAD)  
MUSHALPUR  
PIN- 781372.  
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Linked Case : WP(C)/7149/2022

GAUTAM DAS  
S/O- LATE SONESWAR DAS

R/O- VILLAGE PACHAMTOLA

P.O- CHAMPAK NAGAR  
DIST- KAMRUP (R)

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF  
ASSAM  
DISPUR  
GUWAHATI-781006

2:THE ADDL. CHIEF SECRETARY  
TO THE GOVERNMENT OF ASSAM  
PHE DEPARTMENT  
DISPUR  
GUWAHATI-781006

3:THE ADDL. CHIEF SECRETARY  
TO THE GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL - PERSONNEL B  
DISPUR  
GUWAHATI-781006

4:THE STATE LEVEL COMMITTEE  
FOR COMPASSIONATE APPOINTMENT  
REPRESENTED BY ITS CHAIRMAN  
THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR





GHY-6  
5:THE DISTRICT LEVEL COMMITTEE  
FOR COMPASSIONATE APPOINTMENT NALBARI  
REPRESENTED BY ITS CHAIRMAN  
THE DEPUTY COMMISSIONER  
NALBARI CUM CHAIRMAN DLC NALBARI  
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Linked Case : WP(C)/1386/2022

KAMAL DIHINGIA  
S/O LATE GANGARAM DIHINGIA

VILL- HANDIQUE MILON  
P.O. SIMEN CHAPORI  
DIST. DHEMAJI  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS  
TO BE REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
IRRIGATION DEPARTMENT  
DISPUR  
GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

IRRIGATION DEPARTMENT  
DISPUR  
GUWAHATI-781006

3:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM CUM CHAIRMAN

STATE LEVEL COMMITTEE FOR COMPASSIONATE APPOINTMENT  
DISPUR  
GUWAHATI-6.

4:THE DEPARTMENT OF PERSONNEL  
PERSONAL-B

REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-06.

5:THE JOINT SECRETARY TO THE GOVT. OF ASSAM

TRANSPORT AND DEVELOPMENT DEVELOPMENT  
DISPUR  
GUWAHATI-06.



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Linked Case : WP(C)/7123/2022

BIKASH TALUKDAR  
S/O- LT. DIBAKAR TALUKDAR  
VILL- BORMAKHIBAHA  
P.O. MAKHIBAHA  
DIST.- NALBARI  
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GHY-6

2:THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM  
PHE DEPTT.

DISPUR  
GHY-6

3:THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DEPTT. OF PERSONNEL PERSONNEL B

DISPUR  
GHY-6

4:THE STATE LEVEL COMMITTEE (SLC)  
FOR COMPASSIONATE APPOINTMENT  
BEING REP. BY ITS CHAIRMAN  
NAMELY

THE CHIEF SECY. TO THE GOVT. OF ASSAM  
DISPUR  
GHY-6

5:THE DISTRICT LEVEL COMMITTEE (DLC)  
FOR COMPASSIONATE APPOINTMENT

NALBARI  
REP. BY THE DY. COMMISSIONER  
NALBARI  
CUM CHAIRMAN DLC NALBARI  
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**Advocates for the petitioners**

Mr. M. Khan, Advocate; Mr. J. I. Borbhuiya, Advocate; Mr. F. U. Barbhuiya, Advocate; Mr. M. Hussain, Advocate; Mr. D. Boruah, Advocate; Mr. M. Khan, Advocate; Mr. A. K. Dutta, Advocate; Mr. D. P. Chaliha, Advocate; Mr. A. M. Barbhuiya, Advocate; Mr. B. K. Gogoi, Advocate; Mr. F. A. Laskar, Advocate; Mr. A. U. Ahmed, Advocate; Mr. I. H. Saikia, Advocate; Mr. K. R. Patgiri, Advocate; Mr. S. K. Talukdar, Advocate and Mr. N. Borah, Advocate.

**Advocate for the respondents**

Mr. D. Nath, Senior Government Advocate

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (ORAL)**

**Date : 30-01-2023**

Heard the learned counsels appearing on behalf of the petitioners and Mr. D. Nath, the learned Senior Government Advocate appearing on behalf of all the respondents.

2. The present batch of writ petitions have been filed by the various petitioners who are dependents of Government officials who have died in harness, having less than 3 years balance in their service carriers, thereby assailing the Office Memorandum dated 01.06.2015, only to a limited extent, whereby, the dependants of Government officials who have died in harness

having less than 3 years of service in balance is being deprived of the benefit of the said Office Memorandum. In the present batch of the writ petitions, the candidature of the petitioners have been rejected either by the District Level Committee or by the State Level Committee for compassionate appointment in view of the Clause-1 of the said Office Memorandum dated 01.06.2015, the details of which are mentioned specifically in the latter part of the present judgment.

3. It is the case of the petitioners herein that there is no rationale of depriving the family members of those Government Officers who die in harness, having less than minimum of 3 years of service, from the purview of being considered for appointment on compassionate grounds, in terms with the Office Memorandum dated 01.06.2015, taking into account that the object sought to be achieved is upon the death of an employee who dies in harness, the dependants are provided solace and succor in difficult times due to the death of the sole bread earner.

4. The offending Clause-1 of the Office Memorandum dated 01.06.2015 is quoted herein below:

*“(1) Only one dependent family member of a Government servant appointed on regular basis - excluding one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis - who die in harness or become incapacitated due to accidents suffered while on duty and is eligible to opt for invalid pension under relevant provision of Service Rule/Pension Code and/or who is missing is eligible for making application for compassionate appointment provided in each case the Government servant has balance of minimum of 3 years of service.”*

From a reading of the said Clause-1 quoted as hereinabove, it would reveal that only one dependent family member of a Government servant appointed on regular basis (excluding one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis) who die in harness or become incapacitated due to accidents suffered while on duty and is eligible to opt for invalid pension under relevant provisions of Service Rule/Pension Code, a Government servant who has gone missing, is eligible to make an application for compassionate appointment; provided in each case the Government servant has balance of minimum of 3 years of service.

5. The State respondents have filed a detail affidavit in WP(C) No.3245/2019 and it has also been submitted by Mr. D. Nath, the learned Senior Government Advocate that the said affidavit is a comprehensive affidavit which will deal with the issue in the batch of the writ petitions. In the said affidavit, it has been mentioned that the policy of compassionate appointment as contained in the Office Memorandum dated 01.06.2015 is in conformity with the principles of law as laid down by this Court in the case of ***Achyut Ranjan Das Vs. The State of Assam & Others reported in 2006 (4) GLT 674***. It has been mentioned that the compassionate appointment which is a source of recruitment without taking into consideration the intense merit tends to offend Article 14 and 16 of the Constitution of India. However, strictly on humanitarian ground and to save the surviving family of the deceased Government employee from destitution, an exception is carved out in spite of Article 16 and that is how the State provides for appointment on compassionate ground. On the rationale, behind not granting the benefit to those Government servants who die in harness having less than 3 years balance in service, it has been specifically mentioned that no rationale was found in the note sheets of the relevant file at the point of time of

preparing the Draft O.M. for Cabinet approval. However, it has been mentioned that it was necessary to keep a cut off date on the eligibility for consideration of appointment on compassionate ground. Further it has been mentioned that the cut off balance of 3 years in service has been kept as a condition of eligibility because appointment on compassionate ground is not in lieu of but in addition to family pension that the survivors would be given by relaxing and overriding Recruitment Rules. Further it was mentioned that in case of premature retirement on medical grounds, the 3 years balance in service acts as a deterrent from misusing the provision of appointment on compassionate ground and is also a condition in the DoPT (Government of India) O.M. of 16.01.2013 which was also consulted while framing the Office Memorandum dated 01.06.2015. It was also mentioned that the Office Memorandum providing cut off of the balance of 3 years in service had been placed for consideration and approval of the Cabinet and on receipt of approval of the Cabinet, the Office Memorandum dated 01.06.2015 was brought into effect. Further to that, the said policy of Office Memorandum dated 01.06.2015 has now been replaced by new norms as contained in the Finance Department O.M./Notification File No.FEG 28/2017/26 dated 14.09.2017. To the said affidavit, the Government have enclosed the Office Memorandum dated 01.06.2015, the judgment of this Court dated 03.08.2006 in the case of **Achyut Ranjan Das (supra)** as well as the Office Memorandum dated 16.01.2013 of the Government of India, Ministry of Personnel, Public Grievances and Pensions.

6. From a perusal of the said affidavit filed by the respondent State, one thing is clear and specific that there is no mention whatsoever as to what was the rationale for depriving the dependant(s) of those Government officers who die in harness having less than 3 years of balance in service. This aspect would

be clear from paragraph No.5 of the affidavit of the State Respondents and the relevant portion of the paragraph No.5 for the sake of convenience is quoted hereinbelow:

*“Now coming to the rationale of the balance of 3 years in service.*

*Though the rationale has not been found noted in the notesheets of the relevant file at the point of time of preparing the Draft O.M. for Cabinet approval, it appears that it was necessary to keep a cut off date on eligibility for consideration of appointment on compassionate ground.*

*The cut off balance of 3 years in service has been kept as a condition of eligibility. Because appointment on compassionate ground is not in lieu of but in addition to family pension that the survivors would be given by relaxing and overriding recruitment rules.*

*In case of premature retirement on medical ground this 3 years balance in service acts as a deterrent from misusing the provision of appointment on compassionate ground and is also a condition in the DoPT (Govt. of India) O.M. of 16.01.2013 which was also consulted while framing our O.M. No.ABP.50/2006/Pt/182 dated 01.06.2015. This O.M. providing cut off balance of 3 years in service had been placed for consideration and approval of the Hon'ble Cabinet and on receipt of approval of the Hon'ble Cabinet this became the policy for appointment on compassionate ground. The policy has now been replaced by new norms as contained in Finance Department O.M./Notification file No.FEG 28/2017/26 dated 14.09.2017 (Annexure-IV).”*

7. It is also relevant to take note of that in the judgment rendered by the Coordinate Bench of this Court, in the case of **Achyut Ranjan Das (supra)**, this Court had laid down certain principles on the basis of which the claims relating to compassionate appointments are to be considered. In paragraph No.7 of the said judgment, as many as ten principles have been detailed. The said ten

principles have been incorporated as Principle No.1 to Principle No.10 in the Office Memorandum dated 01.06.2015. There is however, no reference or mention that Government officers dying in harness having less than 3 years balance in service, their dependants would be disentitled to claim appointment on compassionate grounds.

8. This Court have also perused the Office Memorandum dated 16.01.2013 of the Government of India, Ministry of Personnel, Public Grievances and Pensions, which as per the affidavit of the State Government was followed in spirit. Clause-2 of the said Office Memorandum dated 16.01.2013 being relevant is quoted hereinbelow:

“2. **TO WHOM APPLICABLE**

*To a dependent family member-*

(A) *of a Government servant who -*

- (a) *dies while in service (including death by suicide); or*
- (b) *is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group "D" Government servants); or*
- (c) *is retired on medical grounds under Rule 38 of the CCS (Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group "D" Government servants); or*

(B) *of a member of the Armed Forces who –*

- (a) *dies during service; or*



(b) *is killed in action; or*

(c) *is medically boarded out and is unfit for civil employment."*

The above quoted Clause-2 of the Office Memorandum dated 16.01.2013 would show that Clause-2(A), (b) and (c) have limited the benefit of compassionate appointment to dependants of Government officials who have retired on medical grounds before attaining a particular age, but in respect to Government official who had died in harness (including death by suicide), the dependant(s) of such Government officials are eligible to claim consideration for compassionate appointment.

9. In the backdrop of the above pleadings, let this Court therefore take into consideration the respective submissions made by the learned counsels for the parties. The learned counsel for the petitioners have submitted that, taking into account that there is no rationale behind the classification so made by which the family members of the Government officers, having less than 3 years balance in service have been deprived of consideration for compassionate appointment, Clause-1 insofar as it deprives the family members of Government officers who have died in harness having less than 3 years balance in service is violative of Article 14 of the Constitution as it is arbitrary, unreasonable and irrational. The learned counsels for the petitioners have referred to the judgment of the Supreme Court in the case of ***Union of India and Others Vs. N.S Rathnam and Sons*** reported in ***(2015) 10 SCC 681*** and submitted that though Article 14 permits reasonable classification but while the State makes that permissible classification, two conditions must be fulfilled. Firstly, the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and secondly, that the

differentia must have a rational relation to the object sought to be achieved by the statute in question. It was further submitted on the basis of the said judgment that if the Government fails to support its action of classification, on the touchstone of the above principles to the effect whether the classification is reasonable having an intelligible differentia and a rational basis germane to the purpose, the classification would have to be held as arbitrary and discriminatory. The learned counsel therefore relied on paragraph Nos. 12, 13 and 14 of the said judgment.

10. Further to that, the learned counsel have also relied upon the Constitution Bench Judgment in the case of ***D.S. Nakara and Others Vs. Union of India reported in (1983) 1 SCC 305*** to canvas the point that it is the responsibility of the State or for that matter, it is the burden of the State to affirmatively establish that the rational principle on which the classification is founded. In that regard, paragraph 16 of the said judgment have been referred to.

11. On the other hand, Mr. D. Nath, the learned Senior Government Advocate for the State has submitted that the right to be considered for compassionate appointment is not a vested right and as such the question of violation of Article 14 of the Constitution does not arise. He submitted that the policy decision of the Government to have compassionate appointment in terms with the Office Memorandum dated 01.06.2015 cannot be put at fault on the touchstone of Article 14 of the Constitution as the petitioners herein cannot claim right to be appointed on compassionate appointment as of any right. He further submitted that it is the requirement that there has to be cut off year and it is because of that requirement, the Government in its discretion have taken the 3 years from the date of retirement as a cut off year in question for the purpose of granting

the benefit for compassionate appointment. He further submitted that the Office Memorandum dated 01.06.2015 has been formulated taking into account the spirit of the Government of India, Office Memorandum dated 16.01.2013. He further submitted that although the Government of India, Office Memorandum dated 16.01.2013 did not limit the benefits to those persons who die in harness but in order to maintain parity amongst the groups mentioned in Clause-1 of the Office Memorandum dated 01.06.2015, the Government of Assam have applied the same yardstick for those persons who die in harness or have been incapacitated due to accident suffered on duty as well as those persons who have been missing.

12. This Court have perused the respective pleadings, the materials on record as well as the respective contentions so made by the learned counsels. In the opinion of this Court, two issues arises for consideration broadly.

- (i) Whether Clause-1 of the Office Memorandum dated 01.06.2015 insofar as it deprives the dependants of the Government officials who die in harness having less than 3 years of service is violative of Article 14 of the Constitution?
- (ii) If so, what reliefs, petitioners are entitled to?

13. Let this Court first take into consideration the first broad issue so framed. To appreciate the said issue, it is relevant to take note of the concept of compassionate appointment. As it is well settled by various judgments of the Apex Court, compassionate appointment is not a condition of service which is to be made automatic upon the death of an employee in harness without any kind of scrutiny whatsoever. Appointment on compassionate grounds is also not

automatic but subject to strict scrutiny of various parameters including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of other members of the family. This aspect of the matter can very well be seen from the judgment of the Co-ordinate Bench in the case of **Achyut Ranjan Das (supra)** whereby in paragraph No.7, ten principles have been laid down which have been also incorporated in the Office Memorandum dated 01.06.2015 as Principle No.1 to Principle No.10. Therefore, no one can claim to have a vested right for appointment on compassionate grounds. But the question involved in the instant proceedings is, once the Government of Assam in its wisdom and discretion have formulated a policy to give appointment on compassionate grounds, can this Court in exercise of its powers of judicial review look into, if the policy of the Government violates the mandate of Article 14 of the Constitution? The law in that regard is no longer res integra, inasmuch as, if a policy decision is so taken by the Government, the same has to be in conformity with Article 14 as well as the Wednesbury Principles. This answers the first preliminary objection raised by Mr. D. Nath, the learned Senior Government Advocate to the effect that the petitioners having no vested right for appointment on compassionate ground cannot challenge the Office Memorandum even if the policy is not in conformity of Article 14 of the Constitution. It is the opinion of this Court that if Clause-1 of the Office Memorandum dated 01.06.2015 is in violation to Article 14 of the Constitution or in other words is arbitrary, irrational, unreasonable and do not confirm the principles of Wednesbury's reasonableness, this Court in exercise of the powers of judicial review can very well interfere with the same.

14. Now, the next question therefore arises is as to whether Clause-1 of the Office Memorandum dated 01.06.2015 is in violation to Article 14 of the

Constitution. The learned counsels appearing on behalf of the petitioners have drawn the attention of this Court to various judgments of the Supreme Court which have already been referred to hereinabove. In the case of **N.S. Rathnam and Sons (supra)**, the Supreme Court explained the concept of reasonable classification. Paragraph Nos. 13 and 14 of the said judgment being relevant are quoted hereinbelow:

*13. It is, thus, beyond any pale of doubt that the justiciability of particular notification can be tested on the touchstone of Article 14 of the Constitution. Article 14, which is treated as basic feature of the Constitution, ensures equality before the law or equal protection of laws. Equal protection means the right to equal treatment in similar circumstances, both in the privileges conferred and in the liabilities imposed. Therefore, if the two persons or two sets of persons are similarly situated/placed, they have to be treated equally. At the same time, the principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position. It would mean that the State has the power to classify persons for legitimate purposes. The legislature is competent to exercise its discretion and make classification. Thus, every classification is in some degree likely to produce some inequality but mere production of inequality is not enough. Article 14 would be treated as violated only when equal protection is denied even when the two persons belong to same class/category. Therefore, the person challenging the act of the State as violative of Article 14 has to show that there is no reasonable basis for the differentiation between the two classes created by the State. Article 14 prohibits class legislation and not reasonable classification.*

*14. What follows from the above is that in order to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differential which distinguishes persons or*

*things that are grouped together from others left out of the group; and (ii) that, that differential must have a rational relation to the object sought to be achieved by the statute in question. If the Government fails to support its action of classification on the touchstone of the principle whether the classification is reasonable having an intelligible differentia and a rational basis germane to the purpose, the classification has to be held as arbitrary and discriminatory. In Sube Singh v. State of Haryana, this aspect is highlighted by the Court in the following manner: (SCC p. 548, para 10)*

*“10. In the counter and the note of submission filed on behalf of the appellants it is averred, inter alia, that the Land Acquisition Collector on considering the objections filed by the appellants had recommended to the State Government for exclusion of the properties of Appellants 1 and 3 to 6 and the State Government had not accepted such recommendations only on the ground that the constructions made by the appellants were of 'B' or 'C' class and could not be easily amalgamated into the developed colony which was proposed to be built. There is no averment in the pleadings of the respondents stating the basis of classification of structures as 'A', 'B' and 'C' class, nor is it stated how the amalgamation of all 'A' class structures was feasible and possible while those of 'B' and 'C' class structures was not possible. It is not the case of the State Government and also not argued before us that there is no policy decision of the Government for excluding the lands having structures thereon from acquisition under the Act. Indeed, as noted earlier, in these cases the State Government has accepted the request of some landowners for exclusion of their properties on this very ground. It remains to be seen whether the purported classification of existing structures into 'A', 'B' and 'C' class is a reasonable classification having an intelligible differentia and a rational basis germane to the purpose. If the State Government fails to support its action on the touchstone of the above principle, then this decision has to be held as arbitrary and*

*discriminatory. It is relevant to note here that the acquisition of the lands is for the purpose of planned development of the area which includes both residential and commercial purposes. That being the purpose of acquisition, it is difficult to accept the case of the State Government that certain types of structures which according to its own classification are of 'A' class can be allowed to remain while other structures situated in close vicinity and being used for same purposes (residential or commercial) should be demolished. At the cost of repetition, it may be stated here that no material was placed before us to show the basis of classification of the existing structures on the lands proposed to be acquired. This assumes importance in view of the specific contention raised on behalf of the appellants that they have pucca structures with RC roofing, mosaic flooring, etc. No attempt was also made from the side of the State Government to place any architectural plan of different types of structures proposed to be constructed on the land notified for acquisition in support of its contention that the structures which exist on the lands of the appellants could not be amalgamated into the plan."*

15. From the above quoted paragraphs of the said judgment, it is clear that Article 14 being a basic feature of the Constitution, the justifiability of any notification can be tested on the touchstone of the Article 14 of the Constitution. It has been further observed that the State has the power to classify persons for legitimate purposes and every classification in some degree may produce some inequality but mere production of inequality is not enough. Article 14 would be treated as violated only when equal protection is denied even when two persons belong to the same class/category. The Supreme Court further explained in the said judgment that in order to pass the test of permissible classification, two conditions must be fulfilled namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are

grouped together from others left out of the group and (ii) that the differentia must have a rational nexus to the object sought to be achieved by the statute in question. If the Government fails to support its action of classification on the touchstone of the principle whether the classification is reasonable having an intelligible differentia and a rational basis germane to the purpose, the classification has to be held as arbitrary and discriminatory. This Court also finds it relevant to take note of the Constitution Bench judgment in the case of **D.S. Nakara (supra)** wherein the Supreme Court in paragraph No.16 had categorically observed that the burden lies on the State to satisfy the Court that twin test have been satisfied. Paragraph 16 of the said judgment being relevant is quoted hereinbelow:

*“16. As a corollary to this well established proposition, the next question is, on whom the burden lies to affirmatively establish the rational principle on which the classification is founded correlated to the object sought to be achieved? The thrust of Article 14 is that the citizen is entitled to equality before law and equal protection of laws. In the very nature of things the society being composed of unequals a welfare State will have to strive by both executive and legislative action to help the less fortunate in the society to ameliorate their condition so that the social and economic inequality in the society may be bridged. This would necessitate a legislation applicable to a group of citizens otherwise unequal and amelioration of whose lot is the object of State affirmative action. In the absence of doctrine of classification such legislation is likely to flounder on the bed rock of equality enshrined in Article 14. The Court realistically appraising the social stratification and economic inequality and keeping in view the guidelines on which the State action must move as constitutionally laid down in Part IV of the Constitution, evolved the doctrine of classification. The doctrine was evolved to sustain a legislation or State action designed to help weaker sections of the society or some such segments of the society in need of*



*succour. Legislative and executive action may accordingly be sustained if it satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. The State, therefore, would have to affirmatively satisfy the Court that the twin tests have been satisfied. It can only be satisfied if the State establishes not only the rational principle on which classification is founded but correlate it to the objects sought to be achieved. This approach is noticed in Ramana Dayaram Shetty v. International Airport Authority of India when at SCR p. 1034 (SCC p. 506), the Court observed that a discriminatory action of the Government is liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.”*

16. In the backdrop of the above, let this Court take into consideration what is the object sought to be achieved by way of compassionate appointment. The object behind the policy for compassionate appointment is only to provide solace and succor to the family whose sole bread earner dies in harness thereby putting the family in difficulty to sustain. The Supreme Court in the Case of **Umesh Kumar Nagpal Vs. State of Haryana and Others reported in (1994) 4 SCC 138** had observed that the appointment on compassionate grounds is an exception in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. It is only under such circumstances, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the Rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate appointment is thus to enable the family to tide over the sudden

crisis. It was further observed that the object is not to give a member of such a family a post much less a post for post held by the deceased. Paragraph No.2 of the said judgment being relevant is quoted hereinbelow:

*“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the*

*object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned."*

17. This aspect of the matter can also be seen from the affidavit filed by the State respondents wherein it has been mentioned that strictly on humanitarian ground and to save the surviving family of the deceased Government employee from destitution, an exception is carved out in spite of Article 16 and that is how the State Government provides for appointment on compassionate grounds. Therefore, the object sought to be achieved is for the purpose of tiding out the family over the sudden crisis on account of the death of the sole breadwinner. Now, coming to the affidavit as well as the contentions made by the learned Senior Government Advocate, there is no material for which the classification has been made thereby depriving the family members of those Government officials who die in harness having less than 3 years in service. Taking into account that it is for the State to satisfy the twin conditions which have been mentioned hereinabove and the Respondent State herein having failed to show any intelligible differentia, on the basis of which the classification has been

made thereby grouping those Government officials who die in harness having less than 3 years balance in service from others and further that the said differentia have a rational nexus with the object sought to be achieved, this Court is of the opinion that the said classification so made thereby depriving the benefits of the Office Memorandum to the family members of the Government officials who die in harness having less than 3 years to be illegal, arbitrary and discriminatory; and accordingly Clause-1 of the Office Memorandum to the effect that the dependants of the Government officials who die in harness having less than 3 years of service is being deprived, is accordingly struck down being violation of Article 14 of the Constitution and accordingly unconstitutional.

18. The issue can also be looked into from another angle inasmuch as it is the stand of the Government in their affidavit that the Respondent State have adopted this policy having minimum 3 years balance in service on the basis of the Office Memorandum dated 16.01.2013. The quoted Clause-2 of the Office Memorandum dated 16.01.2013 also does not deprive the dependants of the Government officials who die in harness. It is only those persons who have retired on account of medical reasons, the dependants of such Government officials are being deprived, if they don't have a particular number of years in balance. At this stage, it may be relevant to take note of the submission of Mr. D. Nath, the learned Senior Government Advocate to the effect that the Government of Assam have universally applied the same yardstick to all the categories of the Government officials as mentioned in Clause-1 of the Office Memorandum dated 01.06.2015. This contention at the first blush looks attractive and plausible but a comparison of the groups of the Government officials mentioned in Clause-1 of the Office Memorandum dated 01.06.2015 would show that the groups are distinct and different. A Government official

dying in harness cannot be equated with a Government official who have due to medical reasons opted for invalid pension. Therefore the grouping of the said groups together into a class would be an unreasonable classification and would violate the mandate of Article 14 of the Constitution. This Court at this stage also finds it relevant to take note of the submission of Mr. D. Nath, the learned Senior Government Advocate who had submitted that certain Government official when nearing their date of superannuation opt for invalid pension so that their dependants can claim appointment on compassionate grounds and in order to avoid the said mischief, the three years period have been mentioned. It is relevant to take note that the said mischief which the State Government seeks to remedy by Clause-1 of the Office Memorandum dated 01.06.2015 cannot be applied to the Government officials who dies in harness in as much as the mischief which the State Government seeks to remedy under no circumstances can arise in the case of a Government official dying in harness. It is therefore for that reason, the Government of India in its Office Memorandum dated 16.01.2013 did not apply the same yardstick for Government official dying in harness with others.

19. In view of the above, therefore this Court answers the Issue No.1 to the effect that the Clause-1 of the Office Memorandum dated 01.06.2015 whereby the dependent family members of Government official who die in harness having less than minimum 3 of years of service being not eligible as per the said Office Memorandum is unconstitutional, being violative of Article 14 and accordingly struck down to the said extent.

20. Now the next Issue which arises as to what reliefs the petitioners are entitled to.



**(A)**

**WP(C) No.1646/2021**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 04.01.2021 insofar as the rejection of the petitioner's application appearing at Serial No.39 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(B)**

**WP(C) No.1064/2017**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 20.07.2016 insofar as the rejection of the petitioner's application appearing at Serial No.(ii) on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioners without insisting upon the compliance to Clause-1 of the Office Memorandum dated

01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from today.

**(C)**

**WP(C) No.1562/2018**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 24.05.2017 insofar as the rejection of the petitioner's application appearing at Serial No.1 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from

today.

**(D)**

**WP(C) No.1446/2019**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 28.06.2018 insofar as the rejection of the petitioner's application appearing at Serial No.19(b) on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(E)**

**WP(C) No.3245/2019**

In the instant writ petition, the petitioner has assailed the action on the part of the Respondent Authorities in not considering his case on the ground that the petitioner's father had less than 3 years of service. The said inaction is interfered with and thereby directing the District Level Committee for compassionate appointment to consider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated



01.06.2015. It is however made clear that the District Level Committee while considering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from today.

**(F)**

**WP(C) No.4114/2019**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 30.03.2019 insofar as the rejection of the petitioner's application on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful



within 30 days from today.

**(G)**

**WP(C) No.7947/2019**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 28.02.2019 insofar as the rejection of the petitioner's application appearing at Serial No.3 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from today.

**(H)**

**WP(C) No.4384/2021**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 04.01.2021 insofar as the rejection of the petitioner's application appearing at Serial No.27 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without

insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(I)**

**WP(C) No.5883/2021**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 15.09.2021 insofar as the rejection of the petitioner's application appearing at Serial No.5 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the

State Level Committee. The petitioner shall do the needful within 30 days from today.

**(J)**

**WP(C) No.6114/2021**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 27.10.2017 insofar as the rejection of the petitioner's application appearing at Serial No.1 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from today.

**(K)**

**WP(C) No.268/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 15.09.2021 insofar as the rejection of the petitioner's application appearing at Serial No.2 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to

reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(L)**

**WP(C) No.1386/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 15.09.2021 insofar as the rejection of the petitioner's application appearing at Serial No.3 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(M)****WP(C) No.1792/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the District Level Committee held on 26.05.2016 insofar as the rejection of the petitioner's application on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the District Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the District Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next District Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the District Level Committee. The petitioner shall do the needful within 30 days from today.

**(N)****WP(C) No.5031/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 01.03.2022 insofar as the rejection of the petitioner's application appearing at Serial No.1 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner

shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(O)**

**WP(C) No.6798/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 02.08.2022 insofar as the rejection of the petitioner's application appearing at Serial No.1 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.



**(P)**

**WP(C) No.7095/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 10.02.2022 insofar as the rejection of the petitioner's application appearing at Serial No.2 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(Q)**

**WP(C) No.7123/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 28.03.2022 insofar as the rejection of the petitioner's application on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level



Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(R)**

**WP(C) No.7149/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 28.03.2022 insofar as the rejection of the petitioner's application on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

**(S)****WP(C) No.7761/2022**

In the instant writ petition, the petitioner has assailed the Minutes of the State Level Committee held on 26.08.2022 insofar as the rejection of the petitioner's application appearing at Serial No.6 on the ground that the petitioner's father had less than 3 years of service. The said rejection is interfered with and thereby directing the State Level Committee for compassionate appointment to reconsider the case of the petitioner without insisting upon the compliance to Clause-1 of the Office Memorandum dated 01.06.2015. It is however made clear that the State Level Committee while reconsidering the case of the petitioner shall duly take note of the object behind the scheme for compassionate appointment, the provisions of the Office Memorandum dated 01.06.2015, including the 10 principles as set out in the said Office Memorandum. The said exercise be carried out in the next State Level Committee meeting which follows after a certified copy of this judgment is served upon the concerned Departmental Head as well as the Chairman of the State Level Committee. The petitioner shall do the needful within 30 days from today.

21. With above observations and directions, all the writ petitions stands disposed of. Before concluding, this Court makes it clear that by the instant judgment, this Court have only dealt with the issue as to whether Clause-1 of the Office Memorandum dated 01.06.2015 in so far as it deprives the dependant(s) of the Government official having less than 3 years service is constitutional.

**JUDGE****Comparing Assistant**