



GAHC010032742020

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

Case No. : WP(C)/1139/2020

MOKHTAR AHMED
S/O. LT. MD. HARESHAR RAHMAN, VILL. AND P.O. BALISATRA, DIST.
KAMRUP (R), ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE CHIEF SECRETARY, ASSAM CUM CHAIRMAN, STATE LEVEL
COMMITTEE FOR COMPASSIONATE APPOINTMENT, ASSAM, DISPUR,
GUWAHATI-06.

2:THE SECRETARY
TO THE GOVT. OF ASSA
IRRIGATION DEPTT.
DISPUR
GUWAHATI-06.

3:THE SECRETARY
TO THE GOVT. OF ASSAM
A.H. AND VETERINARY DEPTT.
DISPUR
GUWAHATI-06.

4:THE CHIEF ENGINEER
IRRIGATION DEPTT.
GOVT. OF ASSAM
CHANDMARI
GUWAHATI-03.

5:THE DISTRICT ANIMAL HUSBANDARY AND VETERINARY OFFICER
KAMRUP CHENIKUTHI
GUWAHATI-03



Advocate for the Petitioner : MR. N H BARBHUIYA
Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 03-08-2022

JUDGMENT & ORDER (ORAL)

Heard Mr. NH Barbhuiya, learned counsel for the petitioner, Mr. TC Chutia, learned Additional Senior Government Advocate for the respondents No. 1, 3 and 5 being the Chief Secretary of the State of Assam and the authorities under the Animal Husbandry and Veterinary Department of the Government of Assam and Mr. N Upadhyay, learned counsel for the respondents No. 2 and 4 being the authorities in the Irrigation Department of the Government of Assam.

2. The father of the petitioner Hareshar Rahman, who was a Grade-III Section Assistant in the office of the Executive Engineer, Rangia Irrigation Division, died in harness on 07.11.2013 and on his death, the petitioner submitted an application for compassionate appointment on 17.06.2014. The said application was placed before the DLC of Kamrup district in its meeting of 12.10.2015 and there was a recommendation in favour of the petitioner against one of the two vacant posts available for compassionate appointment in the office of the District Animal Husbandry and Veterinary Officer.

3. A note provided to the recommendation of the DLC indicates that the Executive Engineer, Rangia Irrigation Division has submitted a proposal that 5% quota for compassionate appointment for the post of Junior Assistant in the Irrigation Department had already been exhausted. Accordingly, the DLC found that there was vacant posts in the office of the District Animal Husbandry and Veterinary Department and accordingly as per Clause 15 of the Office



Memorandum dated 01.06.2015, a recommendation was made. But it was also provided that concerned Department and office i.e. the Office of the Animal Husbandry and Veterinary Department was requested to take up the matter between them and forwarded the proposal to the SLC for consideration.

4. Accordingly, when the recommendation of the DLC was placed before the SLC, it stood rejected by providing the reason that the proposal of the Irrigation Department was not taken up with the Animal Husbandry and Veterinary Department before being considered by the DLC under Clause 15 of the Office Memorandum dated 01.06.2015.

5. Mr. TC Chutia, learned Additional Senior Government Advocate appearing for the Chief Secretary of the Government of Assam has referred to the provision of Clause 15 of the Office Memorandum dated 01.06.2015, which is extracted as below:-

“If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Department/Office to take up the matter with other Departments/Offices of the Government to provide at an early appointment on compassionate grounds to those in the waiting list.”

6. A reading of the extracted portion makes it discernible that if vacancies are not available in any particular office, it would be open to the Administrative Department/Office i.e. all the Departments where no vacancies are found to take up the matter with any other Departments/Offices of the Government where vacancies may be available for an early appointment on compassionate ground. In other words, a reading of Clause 15 of the Office Memorandum dated 01.06.2015 goes to show that if vacancies are not available in the Department/Office concerned, the Administrative authority of that



department/office would take up the matter with the Administrative authority of other Departments/Offices where vacancies may be available and thereafter be placed before the DLC for its consideration.

7. In the instant case, a reading of the resolution of the DLC dated 12.10.2015 goes to show that the required procedure of the authorities of the Irrigation Department taking it up with the authorities of the Animal Husbandry and Veterinary Department as regards utilizing their vacancies for the purpose of compassionate appointment had not been undertaken.

8. Accordingly, we do not find any infirmity in the rejection by the SLC of the recommendation made by the DLC. But, however, as there is a requirement under the Rule for the Irrigation Department to take it up with the authorities of any other Department as to whether any vacancies exist in such Department, we remand the matter back to the DLC of Kamrup district for a fresh consideration by requiring the Irrigation Department to take it up with any other Departments regarding the availability of vacancies in such Departments as required under Clause 15 of the Office Memorandum dated 01.06.2015 and thereafter place it before the DLC for its fresh consideration.

9. The requirement of the Irrigation Department be done within a period of one month from the date of receipt of a certified copy of this order and thereafter if any vacancies are found available in any other Departments by following the aforesaid procedure, the application of the petitioner be placed before the DLC in its next subsequent meeting.

The writ petition is allowed as indicated above.

JUDGE

Comparing Assistant