



2026:GAU-AS:825

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

WP(C) No.6506 of 2025

- 1.** Abu Ansar Azad
S/o Late Noor Ali
Vill- Dullavpur, P.O. Anipur
P.S.- R.K. Nagar, District-
Karimganj, Assam, PIN- 788734.
- 2.** Niloy Das
S/o Late Niranjan Das,
Vill- Arengabad, P.O. Chargola
Bazar, P.S. – Badarpur,
District- Karimganj, Assam,
PIN- 788720.
- 3.** Abdul Ahad,
S/o Late Abdul Mazid,
Vill- Telidighirpar, P.O. Marjat
Kandi, P.S. – Badarpur,
District- Karimganj, Assam,
PIN- 788710.
- 4.** Mustafa Mahmoor Khan
S/o Late Abdur Raquib Khan,
Vill- Ratanpur, P.O. Kaliganj
Bazar, P.S & Dist- Karimganj
PIN- 788720.
- 5.** Pranoy Kumar Sinha

S/o Late Radha Mohan Sinha,
Vill- Langtarpar, P.O. Muliala
Dist- Karimganj, Assam
PIN- 788750.

- 6.** Akhtar Hussain Choudhury,
S/o Late Amirul Islam
Choudhury, Vill- Tilaiya,
P.O.- Sadarashi,

Dist- Karimganj, Assam,
PIN- 788709.

.....Petitioners

-Versus-

- 1.** The State of Assam,
Represented by the Chief
Secretary to the Government of
Assam, Dispur, Guwahati - 6.
- 2.** The Commissioner & Secretary
to the Govt. of Assam,
Personnel (B) Department,
Dispur, Guwahati- 6.
- 3.** The Deputy Secretary to the
Govt. of Assam, Personnel
Department, Dispur, Guwahati-6

.....Respondents

- B E F O R E -

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Petitioner(s) :Ms. S.B. Choudhury, Advocate

For the Respondent(s) :Ms. M. Bhattacharjee, learned
Additional Senior Government Advocate

for the State respondents.

Date of Hearing : 22.01.2026.

Date of Judgment : **22.01.2026.**

JUDGMENT & ORDER (ORAL)

Heard Ms. S. B. Choudhury, learned counsel appearing for the petitioners. Also heard Ms. M. Bhattacharjee, learned Additional Senior Government Advocate appearing for the State respondents.

2. By way of the instant writ petition under Article 226 of the Constitution of India, the petitioners have put to challenged the impugned Executive Order dated 30.08.2025, issued by the respondent No. 2, so far as Column B(ii) is concerned, primarily on the ground that the said executive stipulation allegedly supersedes and overrides judicial orders and therefore, is bad in law.

3. Ms. S. B. Choudhury, learned counsel appearing for the petitioners, submits that after the order dated 03.04.2025 passed by the co-ordinate bench of this court in ***Abdul Kadir Bokshi vs The State of Assam and 4 Ors.*** in ***WP(C) No. 342/2025***, another order was passed by this court in ***Abul Kalam Azad Vs.***

The State of Assam and Ors. in ***WP(C) No. 2888/2025***, directing consideration of petitioners case for compassionate appointment and hence, any cut-off date under Column B(ii) of the executive order is arbitrary and unenforceable.

4. *Per contra*, Ms. M. Bhattacharjee, learned Additional Senior Government Advocate appearing for the State respondents, submits that the executive order is a policy decision framed for bringing uniformity and consistent decision making by the competent authorities in view of judicial pronouncements, including of the Apex Court and this court, and therefore, no interference is called for.

5. Having heard the learned counsels appearing for the parties and having perused the material placed on record, it is apparent that the government has issued a standard operating procedure for disposal of compassionate appointment cases which, *inter-alia*, makes categorization of cases and prescribes a uniform mechanism for consideration, which reads as under:

Cases, Guidelines & Judgments and Timelines for disposal

<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>
	<i>Types of cases</i>	<i>Guidelines of State Government and Judgments passed by Hon'ble Supreme Court of India and Hon'ble Gauhati High Court applicable for disposal of such cases</i>	<i>Time frame for disposal</i>
<i>i)</i>	<i>All documents/information received in respect of cases of compassionate appointment from the petitioners who have challenged the Office Memorandum No. ABP. 104/2024/90</i>	<i>a) O.M. No. ABP.50/2006/Pt-182 dated 01.06.2015.</i> <i>b) Para 7 of the Order dated 03.08.2006 in WP(C) No. 3875/2005 (Achyut</i>	<i>For DLC/SLC within 1 (one) Month from the date of receipt of the proposal from Personnel Department & for SLC within 1 (one) Month from the date of</i>

	<i>dated 18.09.2024, including those similar cases which have been disposed of by the Hon'ble Gauhati High Court citing the judgment and order dated 03.04.2025 passed by the Hon'ble Gauhati High Court in WP(C) No. 342/2025, pursuant to the Notice dated 30.08.2025 issued by the Personnel Department and subsequently forwarded by the Personnel Department to the respective DLCs/SLCs, shall be considered and disposed of by the concerned DLCs/SLCs on merit by taking into consideration</i>	<i>Ranjan Das Vs. SOA & Ors.)</i> <i>c) State of West Bengal Vs. Debabrata Tiwari and others (Civil Appeal No. 8842-8855/2022)</i>	<i>receipt of such proposal with recommendation from DLC</i>
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	<i>the criteria specified in Para 4 of this standard operating procedure and guidelines and judgments as mentioned in Column C & D of this clause.</i>		
ii)	<i>Applications/cases pending before DLCs/SLCs wherein OM No. ABP. 104/2024/90 dated 18.09.2024 has not been put to challenge before Hon'ble Gauhati High court as on 03.04.2025 but after 03.04.2025 shall be dealt only in terms of OM No. ABP. 104/2024/90 dated 18.09.2024 and shall be disposed and intimated to the applicants by the respective</i>	<i>a) O.M. No. ABP/104/2024 /90 dated 18.09.2024.</i> <i>b) State of West Bengal Vs. Debabrata Tiwari and others (Civil Appeal No. 8842-8855/2022).</i> <i>c) Final Order passed by the Hon'ble Court in relevant case.</i>	

	<i>DLCs/SLCs as the case may be. The order dated 03.04.2025 passed in WP(C) No. 342/2025 shall not apply as precedent for cases that are filed on or after 04.04.2025 challenging the OM No. ABP. 104/2024/90 dated 18.09.2024.</i>		
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6. It is the specific contention of the petitioners that though they have applied pursuant to the applications being called in terms of the aforesaid executive order, however, in view of the stipulations made in Column B(ii) of the said above extracted categorization of cases of the executive order, the petitioners application for compassionate appointment is likely not to be considered. It is on this premise that the present writ petition has been filed.

7. Upon careful consideration of the impugned executive order, it is apparent that the

Government of Assam in the Personnel Department has issued an Office Memorandum dated 18.09.2024 for dealing with matters of compassionate appointment considering the fact that the scheme of compassionate appointment has already been superseded by the compassionate family pension scheme with effect from 01.04.2017 and in consonance with the judgment and order passed by the Apex Court in the case of ***State of West Bengal vs. Debabrata Tiwari and Ors in Civil Appeal No. 8842-8855/2020***. It is further apparent that accordingly in light of various judicial pronouncements, particularly in the case of ***Abdul Kadir Bokshi (supra)*** passed by the co-ordinate bench of this court by judgment and order dated 03.04.2025 and similar matters, the State government issued the impugned Executive Order dated 30.08.2025, whereby a standard operating procedure has been formulated for ensuring uniformity and effective disposal of matters relating to appointment on compassionate ground by structuring how matters are to be processed after issuance of the Office Memorandum dated 18.09.2024. It also reiterates settled parameters of compassionate appointment including immediacy and that compassionate appointment is not a vested right but an exception/welfare measure.

8. It further appears that by issuing the impugned executive order, the respondent authorities are complying with the judgment and order passed by the Hon'ble Apex Court in the case of ***State of West Bengal vs. Debabrata Tiwari and Ors (supra)***.

9. It is worth mentioning that pursuant to a direction passed by this court on 19.01.2026, an additional affidavit has been filed on behalf of the petitioners on 20.01.2026, wherein it appears that the father of the petitioner No. 1 expired on 19.10.1997. Similarly, the fathers of the petitioner Nos. 2, 3, 4, 5 and 6 expired on 07.11.2016, 07.12.2014, 29.12.2006, 02.05.2008 and 31.12.2011 respectively. It further appears that the petitioner Nos. 2, 3 and 5 immediately upon the death of their fathers filed applications for compassionate appointment, i.e. on 04.06.2017, 13.02.2015 and 21.07.2018 respectively. However, the remaining petitioner Nos. 1, 4 and 6 upon attaining majority after the lapse of several years, filed their applications for compassionate appointment on 16.03.2001, 04.06.2017 and 12.10.2019 respectively. It further appears that their cases have not been finalized till date. However, the relief sought in the writ petition is to set aside and quash the impugned Executive order dated 30.08.2025.

10. It is well settled that the scope of judicial review in matters of policy is limited. A writ court does not sit in appeal over governmental policy choices. Unless a policy is shown to be unconstitutional, or manifestly arbitrary/irrational, or discriminatory without reasonable classification, or contrary to statute, the court ought not to interfere with such executive decisions. In ***Balco Employees' Union (Regd.) vs. Union of India and Ors.*** reported in ***(2002) 2 SCC 333***, the Apex Court held that economic and administrative policies fall within the executive domain, and courts do not interfere unless the policy is unconstitutional, contrary to statute, or manifestly arbitrary. It is further well settled that public policy decisions involving administrative choices are not open to judicial review merely because another view is possible. Moreover, the government is entitled to change policy in the public interest, and courts cannot strike down a policy merely because it may cause hardship. In matters of compassionate appointment, it is further settled that the scheme is not a source of recruitment, and appointments can be made only in accordance with the policy/rules applicable.

11. Undoubtedly, a judicial order binds parties and authorities in terms of the direction

issued therein. However, a court's order directing "consideration in accordance with law" does not freeze the legal framework or prevent the state from issuing a general policy applicable to all similarly situated cases. The orders dated 03.04.2025 and 04.06.2025 passed by the Co-ordinate bench of this Court relied upon by the petitioners direct consideration of cases; they do not confer a vested right to appointment dehors policy. Hence, this Court is unable to accept the submission of the learned counsel appearing for the petitioners that Column B(ii) of the impugned executive order has the effect of overriding judicial orders. The executive cannot nullify a binding judicial direction, nor can it take away relief specifically granted by a court. However, at the same time, the government is not precluded from issuing general executive instructions laying down a uniform standard operating procedure for decision making, particularly in areas like compassionate appointment, where a large number of claims arise and consistency is required. A bare perusal of the impugned executive order and the standard operating procedure in question, it is evident that the state has attempted to classify cases and regulate timelines/consideration mechanisms for compassionate appointment matters. Such structuring cannot, by itself, in the considered

opinion of this court be termed as “superseding” judicial orders. Therefore, the issuance of uniform standard operating procedure cannot be set to supersede judicial order.

12. Further, the order dated 03.04.2025 passed by the co-ordinate bench of this court itself clarifies that it shall not operate as precedent for cases filed on/or after 04.04.2025 and shall apply only to cases pending as on 03.04.2025. Similar clarification appears in the subsequent order dated 04.06.2025 of this court as well, where the writ petition was disposed of directing consideration in light of those observations. Thus, what flows from the judicial orders is a direction for consideration as permissible in law. The executive standard operating procedure cannot be read as obliterating the authorities’ obligations to consider such cases in accordance with law.

13. The petitioners grievances are essentially that the executive order draws a line for application of Column B(ii) and since the petitioners case was covered by a later order of the co-ordinate bench of this court dated 04.06.2025, such cut-off is bad. This court is of the unhesitant view that fixing a cut-off date or categorizing cases for administrative uniformity is

not *per se* illegal. Unless it is shown that the cut-off date is wholly capricious, discriminatory or without rational basis, the same cannot be interfered with under Article 226 of the Constitution of India. In ***State of Bihar vs. Ramjee Prasad*** reported in ***(1990) 3 SCC 368*** and ***Government of Andhra Pradesh and Ors. vs. N. Subbarayudu and Ors.*** reported in ***(2008) 14 SCC 702***, it has been held by the Apex Court that the cut-off dates are within executive wisdom unless shown to be capricious or irrational.

14. In the present case, the government's action is supported by rational administrative considerations namely; ensuring a uniform disposal mechanism across DLC/SLC, dealing with a large volume of litigation arising from challenges to the Office Memorandum dated 18.09.2024 and bringing the processing mechanism in tune with judicial pronouncements. The impugned classification under Column B(ii) is thus founded on uniformity in decision making, harmonization with judicial directions and administrative feasibility. Hence, the classification has a rational nexus with the object sought to be achieved. Therefore, Column B(ii) cannot be struck down merely because the petitioners case refers to a later order of this court dated

04.06.2025. Even otherwise, compassionate appointment is not a vested right. It is a concession/welfare measure to meet immediate hardship and has to be strictly in terms of policy/rules. The policy itself highlights the criteria of immediacy and notes that compassionate appointment cannot be claimed after a considerable lapse of time unless permissible under applicable norms.

15. For the reasons above, this court finds no ground to interfere with the Executive Order dated 30.08.2025 so far as Column B(ii) is concerned.

16. The writ petition is devoid of merit and is accordingly dismissed.

17. No order as to costs.

JUDGE

Comparing Assistant