

THE GAUHATI HIGH COURT AT GUWAHATI

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

NOTIFICATION

No. HC.XXXVII-07/2016/1904 /R.Cell

Dated Guwahati the 3rd January, 2017

The Gauhati High Court has been pleased to hereby notify the following scheme/ guidelines to be followed by the appointing authorities while dealing with the issue of compassionate appointment to the dependent of permanent staff of the Gauhati High Court (Principal Seat) at Guwahati and the District Court Establishments of Assam. These principles will come into force with immediate effect.

- (i) Title of the Scheme: This scheme may be referred to as "***Scheme for Compassionate Appointment for the Gauhati High Court, Principal Seat and District Court Establishments of Assam***".
- (ii) Purpose of Scheme: Scheme for providing appointment on compassionate ground to a dependent family member of an employee of any rank, appointed on regular basis and not one working on daily wage or casual or apprentice or ad-hoc or contractual or re-employment basis.
- (iii) Appointing Authority: The term "Appointing Authority" in this scheme refers to all the appointing authorities of District Courts Establishments & Tribunals of Assam as per Rules, under the control and supervision of Gauhati High Court and The Registrar General, Gauhati High Court.
- (iv) Employee: For the purpose of these instructions, "employee" means an employee appointed on regular basis in the Establishment of any Court/Tribunal/ the Gauhati High Court and not one who is working on daily wage or casual or apprentice or ad-hoc or contractual or re-employment basis.
- (v) Dependent Family Member: 'Dependent Family Member' means a person, who was wholly dependent on the employee at the time of his death in harness or becoming incapacitated due to accident suffered while in duty or who is missing, as the case may be and includes (a) spouse, or (b) son (including adopted son), or (c) daughter (including married, unmarried or adopted daughter) or (d) brother or sister in the case of unmarried employee (e) minor child aged 15 years or above. [The appointment of minor child

aged 15 years and above will be considered only on attaining the minimum age for appointment in government service.]

- (vi) Only one dependent family member of the employee appointed on regular basis, who dies in harness or becomes incapacitated due to accidents suffered while in duty or who is missing, is eligible for making application for compassionate appointment, provided in each case the employee has balance of minimum of 3 (three) years of service.
- (vii) Every eligible dependent seeking appointment shall make an application for appointment on compassionate ground in the prescribed form (Annexure-A, appended to the scheme) with all enclosures within 12 (twelve) months from the date of death or retirement or becoming incapacitated due to accident suffered while on duty with the consent letter of such employee or from all other dependent members. In case of missing employee, a request to grant the benefit of compassionate appointment can be considered only after a lapse of 7 (seven) years from the date of lodging an FIR with the police authorities provided that;
 - a. The missing person is not traceable as per police report, and
 - b. The appointing authority feels that the case is genuine.
 - c. The benefit will however not be applicable in cases where the employee has less than 3 years to retire on the date from which he has been missing.
- (viii) In case of dependent, who is a minor and aged 15 years or above at the time of death of employee / retirement of employee incapacitated due to accidents suffered while in duty and no one is appointed on compassionate ground on the death of said employee, he or she can apply for appointment on compassionate ground, however, his/her application will be considered on attaining the age of 18 years only.
- (ix) Compassionate appointment is not a matter of right and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down procedure for such appointments under the scheme.
- (x) The application for compassionate appointments shall be submitted by the dependent in the office, where the deceased or the person incapacitated or missing employee worked. Such application shall then be examined and verified by the Appointing Authority taking into account the relevant

documents and conditions laid down guidelines under this scheme. The Appointing Authority shall examine the eligibility of the candidate with reference to the conditions laid down herein and submit the same before the High Court with his/her comments clearly indicating the reasons for recommending or rejecting the application, as the case may be.

- (xi) The family of a deceased or prematurely retired on becoming incapacitated or missing government employee shall be considered to be in need of immediate financial assistance if any of the two conditions mentioned below is satisfied.
- A. The monthly income of the family falls below 90 percent of the gross monthly salary of the employee before death or premature retirement on becoming incapacitated etc.

OR,

The monthly income of the family falls below the minimum salary of Grade-IV employee (in case of Grade-IV employee) or the minimum salary of a Junior Assistant LDC (in case of employees other than those belonging to Grade IV).

- B. The gross monthly salary, for this purpose shall mean the basic pay with dearness allowance, house rent allowance and medical allowance. The monthly income of the family shall mean the aggregate of:
- 1) Total family pension per month (Basic, Dearness Pension and Relief etc.)
 - 2) Monthly interest income @8% p.a. on the total amount received by the family after death of the employee or retirement of the incapacitated employee (Gratuity, Leave Encashment, any other payments).
- Provided that, where such an employee had to incur medical expenses as indoor patient prior to and leading to his death/incapacitation, such expenses may be deducted from the amount received. All such expenses must be supported by original receipt/cash memo, hospital discharge certificates. Monthly income from movable and immovable properties (the family members are expected to submit a declaration on the matter).
- 3) Monthly income of the dependents of the ex-employee named in the application (the family members are expected to submit a declaration on the matter).

- (xii) If there is more than one application for appointment on compassionate ground, the Appointing Authority shall make a comparative assessment as to who amongst the eligible candidates is preferred for consideration for appointment on compassionate ground.

- (xiii) While making recommendation for appointment, the Appointing Authority will take into account the financial condition of the family of the deceased and on a relative consideration of the cases will make its recommendation. There will be no selection and 'seniority of the claim' will not be resorted to unless two or more eligible candidates are assessed at par on the touchstone of penury.
- (xiv) To decide on the question of financial status of the family of a claimant regard will be had to the following factors;
- (a) Gratuity amount received/receivable
 - (b) Family pension payable
 - (c) Provident Fund Amount received/ receivable.
 - (d) Any ex-gratia payment made or payable
 - (e) Proceeds of LIC policy and other investment of the deceased.
 - (f) Income of the family from other sources.
 - (g) Employment of other family members.
 - (h) Size of the family and liabilities, if any.
- (xv) Compassionate appointments are exempted from recruitment procedures only. The beneficiaries of the scheme have to be otherwise eligible and suitable for appointment.
- (xvi) Appointment on compassionate ground should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.
- (xvii) Compassionate appointments can be made up to a maximum of 5% of the total strength of a cadre at the time of recruitment in any Grade III, not above the cadre of LDA (direct recruitment) or Grade- IV (direct recruitment) posts. While calculating this maximum limit of 5% posts, the following method shall be adopted;
- (a) Total nos. of post already occupied by persons appointed on compassionate ground in a cadre in the particular year of recruitment shall be taken into account. If number of such persons already constitutes 5% or more of the cadre strength, no new appointment shall be made to that cadre on compassionate ground. If however, the number of persons is less than the 5% limit, appointment may be made in such a way that together with the existing appointees on compassionate ground, their total strength does not exceed the specified maximum limit of 5%.

- (b) In small cadres, where number of posts is less than 10, two or more similar cadres may be clubbed together to get one post for compassionate appointment.
- (c) A person recommended for appointment on compassionate ground should be adjusted in the recruitment roster against the appropriate category viz., SC /ST(H)/ ST(P) /OBC/General depending upon the category to which he/she belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point. Similar adjustment may be made in case of horizontal reservation.
- (xviii) The lower and upper age limit of an applicant for appointment on compassionate ground shall be as per prevailing rules provided by the Government of Assam for regular appointment. The upper age limit could be relaxed wherever found to be necessary by the Chief Justice.
- (xix) Educational qualification as prescribed by the concerned service rules shall however not to be relaxed.
- (xx) A person appointed on compassionate ground shall give an undertaking in writing that he/ she will maintain properly the other family members who were dependent on the ex-employee. In case it is proved subsequently that the family members are being neglected or are not being properly maintained by him/her, his/ her appointment may be liable to be terminated. This condition shall also be incorporated in the appointment order.
- (xxi) The inter-se seniority of persons appointed on compassionate grounds may be fixed with reference to their date of appointment.
- (xxii) Where a widow is appointed on compassionate ground to Grade-IV post, she will be exempted from the requirement of educational qualification, provided the duties of the position be satisfactorily performed without having the educational qualification as prescribed by the rules.
- (xxiii) The appointing authorities shall forward the recommendations for compassionate appointment to the High Court in the months of February, June and October every year i.e considering application (s) received during the last 4 (four) months.
- (xxiv) The Chief Justice of the Gauhati High Court shall be the authority for approving the recommendations of the appointing authorities for appointment on compassionate ground.

- (xxv) Recommendation by the appointing authorities, allowing or rejecting applications for appointment on compassionate ground, is to be routed to the Chief Justice as provided in the order of the Gauhati High Court dated 17/2/2014 passed in W.P.(C).No. 1978/2013 (SMTI. BABITA NATH Vs THE STATE OF ASSAM & 3 ORS).
- (xxvi) Matters not covered by the aforementioned guidelines will be decided by the High Court at appropriate stage.

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ANNEXURE-A

**PROFORMA FOR APPOINTMENT ON COMPASSIONATE GROUND TO BE
SUBMITTED BY DEPENDENT BEFORE THE APPOINTING AUTHORITIES OF
GAUHATI HIGH COURT (PRINCIPAL SEAT) AND DISTRICT COURT
ESTABLISHMENTS OF ASSAM.**

1. (a) Name of the employee:-
(Deceased/Retired on becoming incapacitate due to accident suffered while in duty/
Missing Government servant)
- (b) Designation of the employee:-
- (c) Grade of the employee:-
- (d) Date of birth of the employee:-
- (e) Date of death/ retirement on medical ground/missing:-
- (f) Total length of service rendered:-
- (g) Category (ST/SC/OBC/GEN etc.):-
- (h) Date of retirement of the employee as per service book:-
2. (a) Name of the candidate for appointment:-
- (b) Relationship with the employee:-
- (c) Date of birth:-
- (d) Educational Qualification:-
- (e) Monthly income from movable and immovable properties:-
- (f) Whether any other dependent family member
has been appointed on compassionate grounds. :-
- (g) Whether any other dependent family member has
applied for appointment on compassionate grounds. :-
3. Particulars of assets left by the employee:-
 - (a) Family Pension amount:-
 - (b) Provident Fund Amount:-
 - (c) Gratuity amount:-
 - (d) Encashment of leave:-
 - (e) Any other assets;-
 - (f) Income of the family from other sources:-

Total:-----

Handwritten signature/initials

4. Particulars of all the dependent family members of the employee;

Sl. No	Name (s)	Relationship with the employee	Age (DOB)	Address	Monthly income	Employed or not? If employed particulars of employment and emoluments
1.						
2.						
3.						
4.						
5.						

I) I hereby declare that the information furnished by me above is true and correct. The authority may take appropriate steps against me if the information is found to be incorrect at any stage.

II) I hereby also declare that I shall maintain properly the other family members who were dependent on the employee and in case it is proved at any time that the said family members are being neglected or not properly maintained by me, the authority may take appropriate steps against me.

Date:

Signature of the candidate:

Name: _____

Phone No. _____ Mobile No. _____

E-mail ID: _____

Permanent Address _____

Address for correspondence: _____

(Candidate shall annexe self- attested photocopies of relevant documents and recent passport size coloured photograph)

(To be filled up by the employee in case of candidate applying when the said employee has become incapacitated due to accident suffered while on duty).

Sri/ Smti. _____ is known to me and the information furnished by him are correct. I have verified the same.

Signature of the employee.

Name: _____

Designation: _____

Address: _____

The appointing authorities are directed to comply with the provisions of the scheme while dealing with applications for compassionate appointment in their respective establishments.

This supersedes the letter issued by this Registry vide No. HC.XXXVII-07/2016/1400/R.Cell, Dated Guwahati the 4th of May, 2016.

By Order,



(H.K. Sarma)
Registrar General,
Gauhati High Court,
Guwahati

Memo No.HC.XXXVII-07/2016/1904A /R.Cell, Dated Guwahati the 3rd January, 2017

Copy to:

1. Registrar (Vigilance/Administration/Judicial/Estt.), Gauhati High Court, Guwahati.
2. Registrar-cum-Principal Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati for favour of his lordship's kind information.
3. The District & Sessions Judge/ Chief Judicial Magistrate, Kamrup (Metro), Guwahati/ Kamrup, Amingaon/ Goalpara/ Dhubri/ Kokrajhar/ Chirang/ Bongaigaon/ Barpeta/ Nalbari/ Darrang, Mangaldoi/ Udalguri/ Sonitpur, Tezpur/Lakhimpur, North Lakhimpur/ Dhemaji/ Dibrugarh/ Tinsukia/ Sivasagar/ Jorhat/ Golaghat/ Nagaon/ Morigaon/ Karimganj/ Hailakandi/ Cachar, Silchar.
4. The Presiding Officer, Labour Court, Guwahati/ Labour Court, Dibrugarh.
5. The Presiding Officer, Industrial Tribunal, Guwahati/ Industrial Tribunal, Silchar/ Industrial Tribunal, Dibrugarh.
6. The Principal Judge, Family Court No.1, Guwahati/ Family Court No.2, Guwahati/ Family Court No.3, Guwahati/ Family Court, Silchar/Family Court, Barpeta.
7. The Presiding Officer, STAT & Member, MACT No.1, Kamrup, Guwahati/ MACT No.2, Kamrup, Guwahati/ MACT No.3, Kamrup, Guwahati/ MACT, Nagaon/ MACT, Barpeta/ MACT, Cachar, Silchar/ MACT, Nalbari/ MACT Dhubri/ MACT, Tezpur/ MACT, Goalpara.
8. The Special Judge, Assam, Guwahati/ Judge, Designated Court, Guwahati, Assam.
9. The Special Judge, CBI, Assam, Guwahati/Addl. CBI Court No. 1, Guwahati/ Addl. CBI Court No.2, Guwahati/ Addl. CBI Court No.3, Guwahati.
10. Joint Registrar (_____), Gauhati High Court, Guwahati.
11. Deputy Registrar (_____), Gauhati High Court, Guwahati.
12. Assistant Registrar (_____), Gauhati High Court, Guwahati.

✓ 13. System Analyst for uploading the Notification immediately in the official website of the High Court under the caption "Notification dated 03-01-2017 regarding Scheme for Compassionate Appointment for the Principal Seat of Gauhati High Court and District Court Establishments of Assam" with a scroll in the home page.

14. PS to Hon'ble Mr. Justice _____ Gauhati High Court, Guwahati for favour of his lordship's kind information.

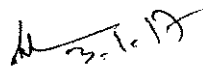
15. PS to Hon'ble Mrs. Justice _____ Gauhati High Court, Guwahati for favour of her ladyship's kind information.

16. Administrative Officer (J), _____ Gauhati High Court, Guwahati.

17. CA to the Registrar General, Gauhati High Court, Guwahati.

18. The High Court Notice Board.

19. The Order File.


(H.K. Sarma)
Registrar General,
Gauhati High Court,
Guwahati