

GAHC010038482021



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

Case No. : WP(C)/2040/2021

LAKHAN CHANDRA SAIKIA
S/O- LT. BOLO RAM SAIKIA, R/O- VILL- MAJKURUA, P.O. KURUA, P.S.
SIPAJHAR, DIST.- DARRANG (ASSAM), PIN-

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, IRRIGATION
DEPTT., DISPUR, GHY-06

2:THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

3:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA
GHY-28

4:THE CHIEF ENGINEER
IRRIGATION DEPTT.
ASSAM
CHANDMARI
GHY-03

5:THE EXECUTIVE ENGINEER
IRRIGATION DEPTT.
MANGALDAI DIVISION
PIN- 78412

Advocate for the Petitioner : MR. J SARMAH

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

18-09-2023

Heard Mr. J. Sarmah, learned counsel appearing on behalf of the petitioners. Also heard Mr. N. Upadhyay, learned Standing Counsel for the respondent nos.1, 4 & 5.

2. The petitioner is aggrieved by the order dated 15.10.2020 (Annexure-4) issued by the Executive Engineer, Mangaldai Irrigation Division by which the petitioner who is a Grade IV employee has been released from Govt. service on superannuation w.e.f. 31.12.2020, as he is alleged to have reached the age of 60 years.

3. The petitioner's counsel submits that the service book shows the date of birth of the petitioner to be 31.10.1971 as per his school certificate. It is evident from the school certificate dated 02.05.1995 that as per the admission register of the petitioner, his age was 11 years and 2 months as on 31st December, 1982. In that event, the petitioner's date of birth could not have been 31.12.1960 and as such, the petitioner should have been released on superannuation only on 31.12.2030. The counsel submits that ignoring such fact the respondent authority has wrongly superannuated him. Even his representations are not getting any fruitful result.

4. In light of above dispute this Court is of the view that an enquiry should

be conducted to ascertain the petitioner's correct date of birth by the District Magistrate/SDM (C) concerned in terms of U.O. No. EE 750/83/4 dated 22.08.1983, issued by the Under Secretary to the Govt. of Assam, Finance (Estta) Department. The said U.O., reads as follows:-

“U.O. No. EE 750/83/4

Dated Dispur the 22nd August/83

All the Deptt. Of the Sectt.U/O

Subject : Correction of Age

Instances have come to the notice of this Department that post of the Departments initiate proposal for correction of the date of birth in respect of Govt. servants under their administrative Control on the basis of Affidavits executed by parents or records other than the original Matriculation Certificate even though the Matriculation Certificate or equivalent certificate is the basis as per provision of S. R. 8 for recording age of a Govt. Employee. It is, therefore, requested that wherever an employee under your administrative control applies for correction of age on the basis of documents other than the Matriculation certificate or equivalent certificate, a report from the District Magistrate/S.D.M. concerned should invariably be obtained to verify the correctness of the age claimed the D.M. /SDM (C) should be asked to have the enquiry conducted by an executive Magistrate and to give his specific views. Only after such a report has been obtained should the proposal be submitted to finance department alongwith your specific views.

Under Secretary to the Govt. of Assam,

Finance (Estt-A) Department

Memo No. EE 750/83/4 (a), Dated Dispur the 22nd August/83 Copy forward for information and necessary action to

: 1. All Heads of Departments.

2.All D. C's /S.D.Os

3. All P.A. Os/P.As/I.Os.

Under Secretary to the Govt. of Assam,

Finance (Estt-A) Department"

5. In view of the above facts and as agreed to by the contesting parties, the respondent no.5 is directed to cause an enquiry to be made through the District Magistrate/SDM(C), Mangaldai District, in terms of the U.O No. EE 750/83/4, which is to be completed within a period of 6 (six) weeks from the date of receipt of this order.

6. The respondent no. 5 shall ensure that the requisition for an enquiry by the District Magistrate/ SDM(C), Mangaldai shall be sent to the concerned District Magistrate, Mangaldai within a period of 2 (two) weeks from the date of receipt of a copy of this order and the District Magistrate shall complete the enquiry and make the report within a further period of 4 (four) weeks. The District Magistrate shall ensure that prior to a decision being taken on the enquiry to be made by the District Magistrate/SDM(C), an opportunity of hearing should be provided to the petitioner.

7. In above terms, this writ petition is disposed of. However, no order as to cost.

JUDGE

Comparing Assistant