

GAHC010043032022



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

Case No. : WP(C)/1619/2022

DEBANON PHONGLO
S/O- LATE NAICHRON PHONGL, R/O- VILL.- MAIBANG, P.O. AND P.S.
MAIBANG, DIST. DIMA HASAO, ASSAM, PIN- 788831.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HILLS AREA DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR, GUWAHATI-06.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PUBLIC WORKS DEPARTMENT
DISPUR, GUWAHATI-06.

4:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
N.C. HILLS AUTONOMOUS COUNCIL
DIMA HASAO
HAFLONG
ASSAM, PIN- 788819.

5:THE EXECUTIVE ENGINEER
P.W.D. (R AND B) MAIBANG DIVISION
MAIBANG
DIST.- DIMA HASAO
ASSAM, PIN- 788831.

6:THE TREASURY OFFICER
HAFLONG

DIST. DIMA HASAO
ASSAM
PIN-788819

Advocate for the Petitioner : MR H TALUKDAR

Advocate for the Respondent : SC, PWD ROAD

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

22.03.2023

Heard Mr. H. Talukdar, learned counsel for the petitioner. Also heard Mr. R. M. Das, learned Standing Counsel, Dima Hasao Autonomous Council and Mr. B. Gogoi, learned Standing Counsel, Finance Department, Assam appearing for the respondents.

The petitioner was appointed as a Handyman under the respondent No.5 vide order dated 30.04.2007 and since then he has been serving under the respondent department until his alleged date of retirement. As per the Transfer Certificate issued by the School authorities the date of birth of the petitioner has been mentioned as 28.02.1971 and the said fact is also mentioned in the Identity Card issued to the petitioner. However, subsequently, the petitioner's date of birth was wrongly recorded as 10.02.1963 in the Registration Form of NPS Account and the petitioner, without being aware of the aforesaid mistake, had signed the Form. In doing so, the date of birth of the petitioner recorded in his PAN Card was taken into account. Although the petitioner had requested for correction of his date of birth in his Service Book, the authorities did not consider such request made by the petitioner as a result of which, he was made to retire from service on attaining the age of superannuation with effect from 28.02.2023.

After hearing the submissions made by the learned counsel for both the sides, it appears that there were two sets of documents available before the authorities pertaining to the petitioner wherein two conflicting dates of birth of the petitioner have been reflected. The question that would, therefore, arise is as to which of the two conflicting dates of birth of the petitioner is required to be acted upon by the authorities. In other words, which is the document which is to be given precedence so as to accept the correct date of birth of the candidate when contrary materials are available. The aforesaid issue has been answered by the Division Bench of this Court by the order dated 20.02.2023 passed in WP(C) No.6858/2022 [**Anjuma Khatun vs. State of Assam and others**]. The relevant observation made in paragraph 14 of the said decision are quoted herein below for ready reference :-

“14. Otherwise also, law is well settled that the date of birth as indicated in the school certificate or the matriculation certificate has to be given precedence over any other document to the contrary. Reference in this regard may be given to the judgment rendered by the Apex Court in Rishipal Singh Solanki -Vs- State of Uttar Pradesh & Ors., reported in (2022) 8 SCC 602.”

In view of the law laid down in the case of **Anjuma Khatun** (*supra*) it is now established that the authorities would have to act on the school certificate of the petitioner while recording/ considering his actual date of birth. This writ petition is, therefore, disposed of by directing that the petitioner would submit his school certificate/matriculation certificate before the authority within 7(seven) days from today along with a certified copy of this order. If an authentic copy of the school certificate is produced by the petitioner before the respondent No.4 within the prescribed period, necessary steps for redressal of the grievance of the

petitioner shall be initiated as expeditiously as possible but not later than four weeks from the date of receipt of a copy of this order.

With the above observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant