

GAHC010077992023



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

Case No. : WP(C)/2156/2023

GUNABHI RAM KALITA
S/O- LATE DHARESHWAR KALITA, R/O- CHANDMARI KRISHNAGAR,
NEAR HOLLY CHILD SCHOOL, P.O. SILPUKHURI, P.S. CHANDMARI, DIST.-
KAMRUP (M), ASSAM, PIN- 781003

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE PRINCIPAL SECRETARY, DEPTT. OF HOUSING AND URBAN
AFFAIRS, P.O. AND P.S. DISPUR, GUWAHATI- 781006

2:THE GUWAHATI MUNICIPAL CORPORATION
GUWAHATI
REP. BY ITS COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GMDA COMPLEX
2ND FLOOR
P.O. AND P.S. BHANGAGARH
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781005

3:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GMDA COMPLEX
2ND FLOOR
P.O. AND P.S. BHANGAGARH
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 78100

Advocate for the Petitioner : MS. K A PUJARI

Advocate for the Respondent : SC, GMC

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

28/08/2023

Heard Mr. K A Pujari, learned counsel for the petitioner and Mr. S Bora, learned Standing counsel, GMC for the respondent Nos. 1 to 3.

2. Petitioner joined as a Muster Roll Employee in the Guwahati Municipal Corporation (GMC) on 17.12.1990 and his service was regularized by order dated 15.06.1996. Later, he was promoted to the post of Upper Division Assistant (UDA) on 23.08.2022 and by an order dated 30.01.2023, he was given the charge of Deputy Commissioner, South Zone against a vacant post. The petitioner retired from service on 30.04.2023 on attaining the age of superannuation and till his date of retirement, he served in the post of Deputy Commissioner in-charge.

3. As such, by filing this writ petition, the petitioner has claimed for the scale of pay of the Deputy Commissioner from the date he was entrusted with the duties/charge of the Deputy Commissioner of the Corporation.

4. In that regard, the petitioner relied upon a decision of a Co-ordinate Bench of this Court in the case of *Ramen Talukdar Vs. State of Assam and 2 Others* [WP(C) No. 7198/2021 decided on 15.06.2022].

5. It is seen from the said order dated 15.06.2022 passed in WP(C) No. 7198/2021, noted above that the scale of pay and allowances of Deputy Commissioner was paid to such in-charge Deputy Commissioner subject to the decision/approval of the Mayor-in-Council.

6. It is seen that from the Minutes of the 16th Mayor-in-Council of GMC meeting held at the conference hall, West Boragaon on 28.03.2023, the authorities concerned of the GMC in the relevant file No. GPR/83/92 after threadbare discussion decided that in-charge Deputy Commissioner does not confer the scale of the Deputy Commissioner except entitlement of Charge Allowance and therefore, it

was decided that the petitioner who was the Deputy Commissioner in-charge be allowed to draw the Charge Allowance as per the State Government Rules.

7. In the said meeting held on 28.03.2023, the Mayor-in-Council of the GMC also decided to work out the promotional scope of the petitioner to the next higher post.

8. From the order No. GPR/93/91/192 dated 30.01.2023 issued by the Commissioner, GMC annexed to this petition as Annexure-4, it can be seen that the petitioner was allowed to officiate at the post of Deputy Commissioner, South Zone purely on in-charge basis in addition to his own normal duties observing further that the petitioner shall draw salary on his own grade scale of pay and allowances. As such, the order dated 30.01.2023 allowing the petitioner to serve as in-charge Deputy Commissioner of South Zone of GMC on in-charge basis was in addition to his normal duties as Assessment Officer of East Zone in terms of the order dated 23.08.2023 issued by the Commissioner, GMC in the pay band of Rs.14,000/- - Rs.49,000/- with grade pay of Rs.8000/- plus other allowances as admissible with effect from the date of his joining. As such, while serving as a Deputy Commissioner in-charge of South Zone of GMC in terms of the said order dated 30.01.2023 of the Commissioner, GMC, the petitioner was holding the post of Assessment Officer, East Zone of the GMC.

9. Therefore, in terms of the Minutes of the 16th Mayor-in-council of the GMC dated 28.03.2023, the petitioner be paid the charge allowance payable to him from the date of taking over the charge of the Deputy Commissioner, South Zone in terms of the order dated 30.01.2023.

10. The GMC authorities shall pay the due amount of Charge Allowances to the petitioner as per his entitlement within a period of 3 (three) months from today in his bank account as he has already retired from service on 30.04.2023, if not already paid.

11. Accordingly, this writ petition is allowed to the extent above.

JUDGE

Comparing Assistant