

GAHC010081592021



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

Case No. : WP(C)/2933/2021

PROBIN CHANDRA SARMA
S/O LATE GANESH CHANDRA SARMA, RESIDENT OF MANIK BEZBARUAH
ROAD, AMOLAPATTY, PO AND PS ITACHALI, DIST NAGAON, ASSAM,
782003

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION DEPARTMENT, DISPUR GUWAHATI 06

2:COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR GUWAHATI 06

3:ASSAM PUBLIC SERVICE COMMISSION

REPRESENTED BY ITS CHAIRMAN
APSC BUILDING
JAWAHAR NAGAR
KHANAPARA
GUWAHATI 78102

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 13/09/2023

Heard Mr. S. K. Das, learned counsel for the petitioner. Also heard Ms. D. Musahary, learned standing counsel, Secondary Education appears for respondent Nos. 1 and 2 and Ms. P. Sarma, learned standing counsel, APSC appears for respondent No.3.

2. This writ petition is filed by the petitioner aggrieved by the fact that his case for consideration for promotion to the post of Additional Director was not given effect to inspite of recommendations of the Selection Board/Departmental Promotion Committee (DPC) by its meeting held on 21.01.2021.

3. The petitioner was rendering his services as Joint Director, Higher Education Department. The learned counsel for the petitioner submits that because of the delay which had occurred at the government level, his promotion, which was recommended by the Selection Board/Departmental Promotion Committee (DPC), was not given effect to and petitioner in the meantime, retired on superannuated on 31.01.2021.

4. Ms. D. Musahary, learned standing counsel, Secondary Education submits that as per Notification dated 18th September, 2021, although the name of the petitioner was recommended by the Selection Board/Departmental Promotion Committee (DPC) recommending him for promotions to the post of Additional Director, and the petitioner having retired from service on 31.01.2021 without having been promoted, the Department of Higher Education, Assam has allowed

notional benefit to the petitioner in the post of Additional Director in the Pay Band-4 of Rs. 30,000-110,000/- with Grade Pay of Rs.16,900/- with effect from the date of his retirement, which is 31.01.2021 for pension and pensionary benefits only.

5. Ms. P. Sarma, learned standing counsel, APSC representing respondent No.3 submits that APSC has already filed the affidavit wherein it is submitted that under Regulation 4(d) of the APSC (Limitation of Functions) Regulation, 1951 for officiating promotion not likely to last for more than one year, it is not necessary to consult the APSC.

6. Having heard the learned counsels for the parties, it is seen that by notification dated 18th September 2021, the benefits sought for by the petitioner has already been granted. The said communication is extracted below:-

*“GOVERNMENT OF ASSAM
SECONDARY EDUCATION DEPARTMENT*

*ORDERS BY THE GOVERNOR
NOTIFICATION*

Dated Dispur the 18th September, 2021

No. ASE 195/2021/10: Consequent upon recommendation for promotion to the post of Additional Director by the Selection Board/DPC in the meeting held on 21.01.2021 in respect of Sri Probin Ch.Sarma and subsequent to his retirement from service on 31.01.2021 without having been promoted to the post of Additional Director, Sri Probin Ch. Sarma, retired Joint Director of Higher Education, Assam is hereby allowed notional benefit of the post of Additional Director in the Pay Band-4 of Rs. 30,000-110,000/- with Grade Pay of Rs.16,900/- with effect from the date of his retirement, i.e. 31.01.2021 for his pension and pensionary benefits only.

*Sd/- B. Kalyan Chakravarthy, IAS
Principal Secretary to the Govt. of Assam
Secondary Education Department”*

7. In view of the said notification and the submissions made by the learned Standing counsel, Secondary Education Department, we do not find any reason

to keep the matter pending any further. The petitioner has superannuated and he has been given the benefits notionally in the rank of Additional Director. Therefore the writ petition stands closed taking on record the submissions made and a copy of the notification dated 18th September 2021 is retained in the case record.

8. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant