

GAHC010120482012



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

Case No. : WP(C)/1157/2012

DR. T.R.BARBORH
SON OF LATE ATAUR RAHMAN BORBORAH, RESIDENT OF OBERON
APARTMENT, 6, LAMP ROAD, AMBARI, GUWAHATI-781001.

VERSUS

STATE OF ASSAM and ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HEALTH AND FAMILY WELFARE B DEPARTMENT, DISPUR, GUWAHATI-6,
ASSAM.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

FINANCE ESTT-A DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF MEDICAL EDUCATION

ASSAM
PANJABARI
GUWAHATI
ASSAM

Advocate for the Petitioner : MR.J HUDA

Advocate for the Respondent : SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29.08.2023

Heard Mr. M.P. Sarma, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Standing Counsel, Health Department for the respondents.

2. This writ petition has been filed by the petitioner praying for a direction to the respondent to regularize the services of the petitioner as a Principal of the Medical College with retrospective effect from 01.10.2004 along with all consequential benefits including salaries. The further prayer made in the writ petition was to fix the pay and allowances of the petitioner w.e.f 01.10.2004 against the post of the Principal, Medical College of the State and to release the arrears of pay and allowances w.e.f 01.10.2004 to 31.08.2010 and a further direction to the respondent authorities to re-fix the pension and other pensionary benefits by reckoning the pay and allowances prescribed for the post of Principal.

3. The Joint Secretary, Health and Family Welfare Department, Government of Assam in its affidavit filed on 28.06.2012 made an averment that the proposal for the claims made by the petitioner was under process for giving financial benefits.

4. The matter was taken up on several dates but no conclusive instructions were placed before the Court with regard to the status of the proposal sent for conferring the financial benefits to the petitioner. Subsequently, on 21.07.2023, during the course of the hearing, the learned Standing Counsel for the Health Department submitted before the Court that the proposal which was forwarded by the Department of Health to the Finance Department has been rejected by the Finance Department. In this connection, an additional affidavit was also filed on 01.08.2023 by the Health Department, wherein at paragraph-2, the following

averments were made:

“2. That by way of the instant additional affidavit, the deponent begs to submit that during the pendency of the instant writ petition the matter regarding ex-post facto promotion and regularization for the period of holding the post as In-Charge Principal, AMC, Dibrugarh in respect of the petitioner/ Dr. T.R. Borbora was moved to the Finance (Estt.-A) Department for their views and necessary approval. However, the Finance (Estt.-A) Department after considering the same has regretted the grant of financial benefit i.e. the pay and allowance to the petitioner in the rank of Principal-cum-Chief Superintendent of Medical Colleges of Assam for the period in question. Thus, the petitioner is not entitled for the above benefits as prayed for.”

5. In view of such submissions, this Court is of the considered view that the writ petition need not be kept pending, the same can be closed with a direction to the respondent authorities to furnish a copy of the order of the Office Note wherein the proposal sent by the Health Department was stated to be rejected by the Finance Department.

6. The learned Standing Counsel for the Health Department has fairly undertaken provide a copy of the said order or extract of the note sheet to the petitioner.

7. In terms of the above without expressing anything on merit, the writ petition stands closed with liberty.

JUDGE

Comparing Assistant