

GAHC010125332022



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

Case No. : WP(C)/4301/2022

DR. RAMA PRASAD BISWAS
S/O LATE MANOJ MOHAN BISWAS, R/O ARATI APARTMENT, COLLEGE
ROAD, SILCHAR-788004, DIST-CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT. OF
ASSAM, HIGHER SECONDARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-6, ASSAM

2:JOINT SECRETARY
GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6
ASSAM

3:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
GUWAHATI-19

4:ASSAM UNIVERSITY
SILCHAR-788001
CACHAR
ASSAM BEING REPRESENTED BY THE VICE CHANCELLOR
ASSAM UNIVERSITY
SILCHAR-788001
CACHAR
ASSAM

5:REGISTRAR
ASSAM UNIVERSITY SILCHAR-788001
CACHAR ASSAM

6:ACCOUNTANT GENERAL
OFFICE OF THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029

7:CACHAR COLLEGE
SILCHAR
BEING REPRESENTED BY THE PRINCIPAL
CACHAR COLLEGE
SILCHAR
SILCHAR TRUNK ROAD
SILCHAR
CACHAR
ASSAM-78800

Advocate for the Petitioner : MR. S P CHOUDHURY

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

Date : 16.02.2023

Heard Mr. S. P. Choudhury, learned counsel appearing for the petitioner. Also heard Mr. K. Gogoi, learned Standing Counsel, Higher Education Department for the respondent Nos. 1, 2 and 3, Ms. P. Das, learned counsel, representing Assam University for the respondent Nos. 4 and 5 and Mr. R. K. Talukdar, learned Standing Counsel, Accountant General (A&E) for the respondent No. 6

2. None appeared for the respondent No. 7, Cachar College, Silchar, though service of notice is complete on the said respondent.

3. The petitioner earlier served as a Lecturer of English in the Cachar College, Silchar, a provincialized college of the State and pursuant to the advertisement and selection, the petitioner was appointed to the post of Reader in the department of English in the Assam University on 24.02.2009. On 06.03.2009, the petitioner submitted an application before the Principal of Cachar College to release him on lien for a period of two years enabling him to join his new assignment as Reader in the Assam University. Accordingly, the petitioner was released. At the time of his release from Cachar College, Silchar, the petitioner was serving as Selection Grade Lecturer and Head of the Department of English in the said college. On 06.03.2009 itself, the petitioner joined in the Assam University as the Reader in the Department of English. While serving as a Reader in the Assam University, the petitioner retired from service on 31.12.2021.

4. The petitioner has filed this writ petition for a direction to the respondent authorities of the State in its Higher Education as well as the respondent Assam University and also respondent Cachar College, Silchar to transfer his pensionary benefits by counting his past service to the Assam Universities for settlement of his pension by counting and considering his past services that he rendered in the Cachar College, Silchar. The petitioner submitted that if his past service that he rendered in Cachar College, Silchar is considered, in that case, he shall not come under the New Pension Scheme after joining the Assam University on 06.03.2009.

5. Earlier the petitioner approached this Court by filing WP(C) No. 3316/2020 for redressal of his grievances and the same was disposed of on 30.03.2021, directing the Director of Higher Education, Assam to take a final

decision on the requirement of releasing the petitioner from his post of Lecturer in English from Cachar College, Silchar in terms of the resolution of the Governing Body of the said college and to pass a reasoned order thereon without expressing any view on the merit on the claim of the petitioner regarding his release from his earlier engagement from Cachar College, Silchar.

6. Pursuant to the same, the Director of Higher Education, Assam, after considering the case of the petitioner, passed a speaking order on 05.10.2021, approving the relevant resolution of the Governing Body of said Cachar College, Silchar pertaining to his release as Lecturer of the said college from the department of English permanently w.e.f. 06.03.2010.

7. It is also placed before the Court that to count the past service of the petitioner, the Director of Higher Education, Assam on 30.12.2021 communicated to the Principal of Cachar College, Silchar, requesting the said authority to submit a report on such prayer of the petitioner.

8. Pursuant to the same, the authorities of Cachar College, Silchar, vide letter No. CC/PSB/2022/334 dated 02.11.2022 submitted a resolution dated 04.01.2022 of the Governing Body of the said college regarding the past service benefit in respect of the petitioner. The relevant portion of the said resolution is as follows:-

“Resolution No. 5(a):

- 1. The DHE, Assam be requested to count the past service of Dr. Rama Prasad Biswas, who served Cachar College, Silchar, Assam as lecturer with effect from 03.10.1988 to 06.03.2009 for all past service benefits along with the pensionary benefits for the aforesaid period.*

2. *The GB further resolved that the DHE, Assam be requested to communicate with the authority of the Assam University, Silchar to sanction, approve and release his final pension as Professor of Assam University, Silchar by counting his service w.e.f. 03.10.1988 to 06.03.2009 as Lecturer at Cachar College, Silchar so that he will get benefits for all purposes.*

3. *The Secretary, GB be authorized to forward all the relevant papers and documents to the DHE, Assam along with the original copy of the GB resolution for counting past services of Dr. Rama Prasad Biswas rendered at Cachar College, Silchar, Assam.*

9. During the deliberation of the matter, Mr. Gogoi, learned Standing Counsel, Higher Education Department, placed before the Court a copy of the order No. DHE/CE/CC/56/2021/34 dated 06.02.2023, whereby the Director of Higher Education, Assam approved the resolution No. 5(a) dated 04.01.2022 of the Cachar College, Silchar counting the past service benefits in respect of the petitioner as Lecturer in the department of English in said Cachar College for the period from 03.10.1988 to 06.03.2009, who has already retired from service on 31.12.2021 on attaining the age of superannuation at the age of 65 years.

10. Copy of the said order of the Director of Higher Education, Assam, dated 06.02.2023, noted above, be furnished to Ms. P. Das, learned counsel for the Assam University, respondent Nos. 4 and 5 and Mr. R. K. Talukdar, learned Standing Counsel, Accountant General (A&E) for the respondent No. 6 for their necessary use.

11. Since the Director of Higher Education, Assam, by its order dated

06.02.2023, has already approved the service of the petitioner w.e.f. 03.10.1988 to 06.03.2009 as Lecturer in the department of English in said Cachar College, Silchar, the respondents in the Assam University as well as the Accountant General (A&E), Assam shall do the needful for payment of pension and other pensionary benefits to the petitioner forthwith considering the fact that the petitioner retired from service on 31.12.2021.

12. The respondent No. 7, Cachar College, Silchar, is also directed to transmit the relevant records about its resolution dated 04.01.2022 pertaining to the counting of past service of the petitioner for the period from 03.10.1988 to 06.03.2009, during which the petitioner served in the said college as Lecturer in the department of English forthwith to the respondent Assam University.

13. Copy of this order along with copy of the order dated 06.02.2023 of the Director of Higher Education, Assam be furnished to Ms. P. Das, learned counsel, representing Assam University for the respondent Nos. 4 and 5 and Mr. R. K. Talukdar, learned Standing Counsel, Accountant General (A&E) for the respondent No. 6.

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

JUDGE

Comparing Assistant