

GAHC010132402021



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

**Case No. : WP(C)/4320/2021**

PRAKASH CHANDRA SAIKIA  
S/O LATE SARBESWAR SAIKIA, R/O VILL-GARPARA KONWAR GAON, P.O.-  
GARPARA, DIKOM, DIST-DIBRUGARH, ASSAM, PIN-

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE SECRETARY, LABOUR WELFARE

2:THE LABOUR COMMISSIONER  
ASSAM  
OFFICE OF THE LABOUR COMMISSIONER  
GOPINATH NAGAR  
GUWAHATI-16

3:THE ASSISTANT LABOUR-COMMISSIONER  
DIBRUGARH  
ASSAM

4:THE MANAGEMENT  
GREENWOOD TEA ESTATE  
P.O. AND P.S.-DIBRUGARH  
DIST-DIBRUGARH  
ASSAM  
PIN-78600

**Advocate for the Petitioner : MR. B J MUKHERJEE**

**Advocate for the Respondent : GA, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

07.06.2023

Heard Mr. H Buragohain, learned counsel for the petitioner. Also heard Mr. L. Sangtam, learned counsel for the respondent No. 4 and Mr. SS Roy, learned Junior Government Advocate.

2. The petitioner was an employee under the respondent No. 4, which is the Management of one Greenwood Tea Estate, admittedly a Private Limited Company. He claims that the pension has wrongly been refused to him by the Management and he has raised his grievances before the Labor Commissioner, Assam. Accordingly, the present writ petition is filed to issue a writ of mandamus to the respondent Nos. 1 and 3 to take concrete steps against the respondent No. 4.
3. The petitioner was dismissed from service by the Management on 11.07.2002 and thereafter an application under Section 33(2) of the Industrial Dispute Act, 1947 was filed before the learned labour court, Dibrugarh for approval. Subsequently, the labour court, Dibrugarh by its order dated 16.09.2003 held that the petitioner was not an workman.
4. Thereafter, the petitioner filed T.S. No. 42/2006 in the court of learned Civil Judge, Senior Division, Dibrugarh for declaration that the order of dismissal of service was null and void and inoperative. The dismissal order was also under challenge. Said suit was dismissed by judgment and decree dated 05.09.2006.
5. Challenging the said dismissal order, an appeal was preferred being TA No.

48/2006. Said appeal was allowed and the matter was remanded to the court for a denovo trial.

6. The Management preferred an appeal being SAO No. 03/2009 before this court against the order of reversal and the said SAO was allowed by this court by judgment and order dated 27.05.2009, the judgment and decree dated 05.09.2006 was upheld.
7. A review petition preferred by the petitioner seeking the review of order passed in SAO was also dismissed. Then the matter was carried to the Hon'ble Apex Court by the petitioner. Thereafter, the Hon'ble Apex Court held that the petitioner is required to be paid by the Management a sum of Rs. 5,00,000/- as full and final settlement of his claim and such payment was directed to be made within a period of three months.
8. Subsequently, the petitioner was advised to join service at Nagaghuli Division L.P. School with immediate effect. Thereafter, the petitioner filed another Misc. Case No. 3/2018 before the learned labour court, Dibrugarh seeking recovery of Rs. 61,15,247/- along with 10 times of the amount totaling a claim of Rs. 6,72,67,714.66 only together of the cost of the suit etc. The ground was that the school where the petitioner was transferred was not within the company. Such petition was dismissed by the learned labour court on 28.02.2019.
9. Being aggrieved by the aforesaid order again a writ petition was filed by the petitioner being WP(C) 3295/2019 for setting aside the aforesaid order dated 28.02.2019 as well as seeking writ of mandamus directing the Management to make payment of monthly salary and allowances including ration to the petitioner for the period from 15.03.2002 to 08.10.2017.

Such writ petition was also dismissed by this court. Being aggrieved, the petitioner preferred an writ appeal and the same was also dismissed by the Hon'ble Division Bench of this court under its order dated 23.02.2023 and held that the judgment impugned does not suffer from any infirmity warranting interference. In the meantime, the present writ petition was filed with the grievances as discussed hereinabove.

10. The petitioner was held to be not a workman by a competent Labor court and such determination has in the meantime attained finality. Therefore, this court now cannot ask the Labor Commissioner to consider the grievances of the petitioner and such course of action shall amount conferring jurisdiction upon the Labour Commissioner to exercise its power dealing with a person who is not a workman.
11. Accordingly, the present writ petition stands dismissed. The petitioner shall be at liberty to approach appropriate authority permissible under Law to raise his grievances.

**JUDGE**

**Comparing Assistant**