

GAHC010135572023



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

Case No. : WP(C)/3642/2023

DALIM DAS
S/O- LATE SURENDRA NATH DAS,
R/O- NAYANPUR, BYELANE-2,
H/NO.- 16, GANESHGURI, GUWAHATI- 781006,
DISTRICT- KAMRUP(METRO), ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
ENVIRONMENT AND FORESTS DEPARTMENT,
DISPUR, GUWAHATI- 781006, DISTRICT- KAMRUP(M),
ASSAM.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI- 781037.

3:THE ADDL. CHIEF CONSERVATOR OF FORESTS (T)
LOWER ASSAM ZONE
BASISTHA
GUWAHATI- 781029.

4:THE CONSERVATOR OF FORESTS
FOREST UTILIZATION OFFICER
ASSAM
JALUKBARI
GUWAHATI- 781014.

5:THE DIRECTOR OF SOIL CONSERVATION
ASSAM
BHUMI SANGRAKSHAN BHAWAN

R.G.B. ROAD
GUWAHATI- 781005.

6:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
GUWAHATI- 781029

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 28-07-2023

Heard Mr. B.D. Konwar, learned Sr. counsel assisted by Mr. H. Agarwal, learned counsel for the writ petitioner. Also heard Mr. R.R. Gogoi, learned stranding counsel, Forest Department, Assam appearing for the respondent Nos. 1 to 4 and Mr. R.K. Talukdar, learned standing counsel, AG appearing for the respondent No. 5.

The writ petitioner herein was serving as Assistant Conservator of Forest under the Forest Department, Assam. According to the petitioner, his correct date of birth is 01-04-1965 and therefore, his date of retirement would fall on 31-03-2025. However, according to the entry made in the service book of the petitioner, his date of birth has been recorded as 01-04-1963. Consequently, the date of superannuation of the petitioner was stated to be 31-03-2023. Although the petitioner had raised a controversy pertaining to his date of birth and the consequent date of retirement recorded in the service book, yet,

Mr. Konwar submits that the petitioner has been allowed to continue in service till 31-03-2023 and since then, he has not reported for duty.

Mr. Konwar, learned Sr. counsel for the petitioner further submits that w.e.f. 01-04-2023 his client has not been allowed to join duty. According to Mr. Konwar even if the date of retirement of the petitioner, as projected by the department, is taken to be on 31-03-2023, even then, the petitioner would be entitled to receive his retirement benefits including pension. Therefore, he would have no objection if the writ petition is disposed of by providing that the pensionary dues of the petitioner is settled in a time bound manner by taking his date of retirement as 31-03-2023.

Mr. Gogoi, learned departmental counsel has also agreed to the said recourse. Similar is the stand of Mr. Talukdar, learned standing counsel, AG, Assam.

In view of the above, without expressing any opinion on the core controversy regarding the correct date of birth of the petitioner, since the petitioner has accepted the stand of the department and proceed on retirement w.e.f. 31-03-2023 and in view of the fact that the departmental counsel has not raised any objection as regards the claim of the petitioner to receive pension and other retirement benefit as per law, this writ petition stands disposed of by providing that the petitioner's pensionary claim and retirement dues be settled as expeditiously as possible, preferably within 03 months from the date of receipt of a certified copy of this order.

The writ petitioner to also furnish all requisite information/ documents necessary for settlement of his retirement dues.

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

JUDGE

GS

Comparing Assistant