

GAHC010164942023



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

Case No. : WP(C)/4305/2023

NABADWIP NANDI
S/O LATE JAGADISH CH. NANDI, P.O. AND P.S.-KOKRAJHAR, DIST-
KOKRAJHAR, ASSAM, PIN-783370

VERSUS

THE STATE OF ASSAM AND 9 ORS.
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006

2:THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
GENERAL ADMINISTRATION DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

4:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GUWAHATI-781006
ASSAM

5:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

ASSAM

6:THE BODOLAND TERRITORIAL COUNCIL
THROUGH THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM

7:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR
ASSAM

8:THE DEPUTY COMMISSIONER
KOKRAJHAR
ASSAM

9:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KOKRAJHAR
ASSAM

10:THE DEPUTY INSPECTOR OF SCHOOLS
KOKRAJHAR
ASSA

Advocate for the Petitioner : MR. P J PHUKAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

04-08-2023

Heard Mr. P.J. Phukan, learned counsel for the petitioner. Also heard Mr. C.S. Hazarika, learned Government Advocate, for the respondent nos. 1 & 8 and P. Nayak, learned Standing Counsel, BTC appearing for the respondent nos. 2, 6, 7, 9 and 10. Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no.3 and Mr. B. Talukdar, learned Standing Counsel, Elementary

Education Department appearing for the respondent nos. 4 & 5 are present.

2. This writ petition is filed by the petitioner who is employed as a Statistical Assistant in the Office of the Deputy Inspector of Schools, Kokrajhar. The petitioner is an awardee of "*Lok Sewa Puraskar 2022*" which is a Chief Minister Award for excellence in public service. Learned counsel for the petitioner has referred to the Clause-IV to the guidelines framed by the State for issuance of *Karmachari Award* which provides that each employee so awarded will get one year of extension of service. The said guidelines lay down the procedure for selection of an awardee, the criteria for selection, constitution of a committee etc. That apart, Mr. Phukan has also referred to a brief note of the "*Lok Kalyan Puraskar*". Mr. Phukan further refers to a communication dated 07.06.2023 issued by the General Administration Department, Government of Assam, whereby it was communicated that by OM No.E-299720/01 dated 29.50.2023 issued by the Finance (SIU) Department, the retirement age of "*Lok Sewa Awardees*" have been extended from 60 years to 61 years. Learned counsel for the petitioner submits that in spite of such commitments and the decisions taken by the Government, his extension of age for service was not given effect to. The petitioner superannuated on 31.08.2022. Mr. P.J. Phukan further submits today that after filing of the writ petition by communication dated 28.07.2023, the General Administration Department, Government of Assam, informed the Deputy Inspector of Schools, Kokrajhar that the approval has been conveyed for the proposal for extension of retirement age from 60 years to 61 years in respect of the petitioner who retired as a Statistical Assistant from the office of the Deputy Commissioner of Schools, Kokrajhar and he is a district level "*Lok Sewa Awardees*" for the year 2022. A copy of the said communication dated 28.07.2023 has been placed before this Court by the learned counsel for the

petitioner. Learned counsel for the petitioner submits that in view of this communication dated 28.07.2023, the petitioner's first prayer for seeking a direction to the respondent to grant extension of his retirement age from 60 to 61 has been addressed and accordingly, he does not wish to press his first prayer for extending his retirement age from 60 to 61 years. However, learned counsel for the petitioner submits that the petitioner has another prayer that in view of the extension of the retirement age, the petitioner ought to have been considered for promotion to the next higher post as he satisfies all the required eligibility criteria and people below to him are in the gradation list and accordingly, their prayer may be considered by overlooking the prayer of the petitioner.

3. Mr. P. Nayak, learned Standing Counsel, BTC, submits that in so far as the second prayer is concerned, in the writ petition the petitioner is only seeking an order from the Court for extension of his age from 60 to 61 years and that having been granted by the Department, no further cause survives in the writ petition. Learned counsel appearing for other respective Departments have also supported the argument advanced by Mr. P. Nayak.

4. Having heard the learned counsel for the parties, this Court is of the view that since the retirement age of the petitioner has already been extended from 60 to 61 years by the competent Department by its communication dated 28.07.2023, the petitioner will now be deemed to be in service till he attains his retirement age of 61 years.

5. In that view of the matter, in the meantime, if the Department is proceeded to promote any employee, who is junior to the petitioner, as would be evident from the gradation list maintained by the Department then the case of the petitioner shall be considered by the Department in respect of his

promotion as per the provision of law. In this regard, the petitioner is granted liberty to approach the Department by filing a detailed representation ventilating his grievances in respect of non-consideration of his case for promotion. The petitioner shall file his representation before the Director of Education, BTC within a period of 2 (two) weeks from the date of receipt of a certified copy of this order and the Director of Education, BTC, upon receipt of such representation will look into the matter and after considering all necessary facts shall pass a reasoned speaking order disposing of the said representation. Any such order is passed, a copy of the same shall be furnished to the petitioner. This entire exercise shall be completed before 31.08.2023.

6. A copy of the communication dated 28.07.2023 submitted by the learned counsel for the petitioner is retained as a part of the record.

7. With the above terms and directions, the writ petition stands allowed.

JUDGE

Comparing Assistant