

GAHC010166512021



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

Case No. : WP(C)/5468/2021

MD. AZAHAR ALI
S/O- MD. MONTAZ ALI, VILL- GHORAMARA (PT-II), P.O. RANGAPANI, P.S.
MERER CHAR, DIST.- BONGAIGAON, ASSAM, PIN- 783384

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(SECONDARY), DEPTT., DISPUR, GHY-6

2:THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE (BUDGET) DEPTT.
DISPUR
GHY-19

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

4:THE INSPECTOR OF SCHOOLS
BONGAIGAON
DISTRICT CIRCLE
BONGAIGAON
ASSA

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

Date : 27-01-2023

Heard Mr. MU Mahmud, learned counsel for the petitioner and Mr. NJ Khataniar, learned counsel appearing for the Secondary Education Department. Also heard Mr. A Chaliha, learned counsel appearing for the respondent No. 2.

2. Considering the nature of grievance projected, the writ petition is taken up for disposal at this stage.

3. By filing this writ petition, the petitioner has sought for a direction to the respondent authority concerned to prepare and pay his arrear salary for the period w.e.f. 01.08.1995 till 25.09.2008. According to the petitioner, he was appointed as a Craft Teacher in Binapani United High School on 15.02.1992. The school was provincialised along with the Head Master and teachers of the school vide order dated 26.03.1996 w.e.f. 01.08.1995. However, the post of Craft Teacher against which the petitioner was appointed was left out.

4. Aggrieved the petitioner approached this Court by filing WP(C) No. 4152/2010 which came to be disposed of vide order dated 12.05.2015 in terms of a judgment rendered in another petition, namely, Civil Rule No. 1571/1998 disposed of vide judgment and order dated 01.09.2003. This Court in the said writ petition after coming to the conclusion that the judgment and order dated 01.09.2003 had attained

a finality, gave the instant writ petitioner the benefit of direction No. 6, which was to the effect that all appointments would be prospective but will carry the benefit of past service for the purpose of computation of pensionary benefits as per the Assam Services (Pension) Rules, 1969.

5. A bare perusal of the judgment and order dated 12.05.2015, passed in WP(C) No. 4152/2010 filed by the present writ petitioner would go to show that benefit of past service was to be given only for the purpose of computation of pensionary benefits. No mention whatsoever has been made regarding grant of arrear salary to the petitioner. As such, the prayer of the petitioner for grant of arrear salary from 01.08.1995 till 25.09.2008 cannot be accepted. The petitioner subsequently got the benefit of provincialization and he joined the school on 24.09.2008 as Craft Teacher. As such, the petitioner although found to be not entitled to arrear salary, will be entitled to be given the benefit of counting of his past service w.e.f. 01.08.1995, i.e., the date on which school was provincialized in terms of the order dated 12.05.2015 passed in WP(C) No. 4152/2010.

6. With the above observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant