

GAHC010172672020



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

Case No. : WP(C)/5141/2020

NARNARAYAN KAKATI
S/O LATE UMARAM KAKATI,
PRESENTLY RESIDENT OF C/O CHAKRADHAR KALITA, PO AND VILLAGE
CHAMARIA, DIST KAMRUP ASSAM, 781326

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR
GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR GUWAHATI 781006

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 781019

4:THE INSPECTOR OF SCHOOLS
KAMRUP
CIRCLE DADARA
KAMRUP R ASSAM 781104

5:SRI ABDUL JALIL
HEADMASTER IN CHARGE
CHHAMARIA HIGH SCHOOL
PO PACHIM CHAMARIA
DIST KAMRUP

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

Date : 30-05-2023

Heard Sri R. Sarma, learned counsel for the petitioner; also heard Ms. D. Das Barman, learned State counsel as well as Sri R. Mozumdar, learned Standing Counsel, Secondary Education Department.

In view of the development which had taken place during the pendency of this writ petition, the same is being disposed of without requiring to answer the issue which was initially raised at the time of filing of the writ petition. However, for the sake of convenience, the background of the case is stated in brief in the following manner.

An order dated 07.01.2020 is the subject matter of challenge by which the respondent No. 5 was allowed to hold the charge of the Head Master of Chamaria High School. The principal ground of challenge was that the petitioner was the senior most Assistant Teacher of the School, who was also graduate and holding B.Ed Degree, whereas the respondent No. 5 was junior to him. The specific case of the petitioner is that while the petitioner had received the graduate scale of pay w.e.f. 23.04.2001, the respondent No.5 had received the said graduate scale of pay w.e.f. from 01.07.2009 and on this ground the petitioner has claimed to be senior to the respondent No. 5 and has based the present challenge.

Sri M. Khan, learned counsel for the respondent No. 5 however, submits that the issue of reckoning the date of receiving the scale of pay of the respondent No. 5 was the subject matter of challenge in WP(C) No. 6279/2012 and WP(C) No.6210/2010 which were answered in favour of the petitioner and whereby a direction was given

for consideration of the date for giving effect to receipt of graduate scale of pay was determined to on 01.03.1999. The aforesaid determination of this Court was also accepted by the authorities after due consideration.

Sri M. Khan further submits that the aforesaid order was subject matter of review by the State which was also dismissed. Subsequently, the date of reckoning of receipt of the graduate scale of pay of the respondent No. 5 has been taken to be on 01.03.1999. Sri M. Khan accordingly submits that in view of the said position, there would be no legal ground to proceed with the present matter.

Sri R. Sarma, learned counsel for the petitioner does not dispute the aforesaid formal position and fairly accedes to the submission made by Sri Khan, learned counsel for the respondent no. 5.

In view of the aforesaid facts and circumstances and taking into account of the factual determination which has been concluded by judicial pronouncement by which the date of receipt of graduate scale of pay of the respondent No. 5 has been determined to be 01.03.1999, the claim that the petitioner to be senior to the respondent No. 5 does not appear to be substantiated.

In view of the same writ petition stands dismissed of.

Interim order stands vacated.

JUDGE

Comparing Assistant