

GAHC010179082021



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

Case No. : WP(C)/6062/2021

MANOHAR SAIKIA
S/O. LT. MANICHANDA SAIKIA, VILL. DAKSHIN PAT BHAKAT GAON, P.O.
CHANGCHAKI, DIST. NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI.

4:THE DIRECTOR OF PENSION

ASSAM HOUSEFED COMPLEX
GUWAHATI-06.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

NAGAON
ASSAM

Advocate for the Petitioner : MR. D P BORAH

Advocate for the Respondent : GA, ASSAM

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

ORDER

21.06.2023.

1. Heard Mr. D. P. Borah, learned counsel for the petitioner. Also heard Mr. P. N. Sarma, learned Standing Counsel for the Elementary Education Department representing the respondent Nos. 1, 3 and 5, Mr. S. R. Baruah, learned Standing Counsel for the Director of Pension representing the respondent No. 4 and Mr. A. Chaliha, learned Standing Counsel for the Finance Department representing the respondent Nos. 2.
2. The present writ petition is filed assailing an order dated 24.07.2021 issued by the Finance & Accounts Officer, Directorate of Pension, Assam.
3. By the aforesaid order, it was concluded that while sending pension proposal of the petitioner who retired from service on June, 2019 as an Assistant Teacher of Kameswar Borthakur M. V. School, Kampur, Nagoan, his scale of pay was wrongly calculated @ Rs. 9700/- instead of Rs. 9530/- on 01.01.1989.
4. Thereafter a proposal was made regarding recovery of excess payment drawn by the petitioner on the basis of such wrong fixation of scale of pay. Accordingly, this Court under its order dated 17.11.2021, while issuing notice of motion directed the respondents to continue with

the provisional pension.

5. Mr. P. N. Sarma, learned Standing Counsel for the Elementary Education Department, on instruction submits that the pension proposal of the petitioner has already been forwarded to the Director of Pension with a request to waive the excess drawl and not to propose for recovery in terms of the Finance Department Notification dated 27.01.2022.
6. Mr. Sarma, learned Standing Counsel submits that all other benefits including DCRG, Leave encashment, GIS etc. has already been transferred to the account of the petitioner.
7. Mr. Baruah, learned Standing Counsel for the Pension Department, submits that when a pension proposal is received in the Directorate, the same is generally settled within a period of one month, however, since there is some question of waiver, the department shall be able to complete the process within a period of two months.
8. In view of the aforesaid consensus, the present writ petition is disposed of with a direction that the regular pension proposal of the petitioner be settled at the Directorate of Pension within a period of two months from the date of receipt of the certified copy of this order. The petitioner is given a liberty to download a copy of this order from the website and served the same before the Directorate of Pension to bring to the notice of the Director, the order passed today.
9. It is needless to say that though recovery is waived, the pension should be fixed at the correct scale of pay.

10. Accordingly this writ petition is disposed of.

JUDGE

Comparing Assistant