

GAHC010188392022



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

Case No. : WP(C)/6132/2022

PRODIP KUMAR KHOUND
S/O. LT. JOGEN CH. KHOUND BORBIL-1, DIGBOI, DIST. TINSUKIA, ASSAM,
PIN-786171

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PENSION AND
PUBLIC GRIEVANCE DEPTT., DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
EDUCATION (HIGHER) DEPTT.
DISPUR
GUWAHATI-06.

3:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE COMMISSIONER AND SECY.
FINANCE DEPTT.
DISPUR
GUWAHATI-06.

5:THE ACCOUNTANT GENERAL
BELTOLA
MAIDAM GAON
GUWAHATI-22.

6:THE PRINCIPAL
DIGBOI COLLEGE

DIGBOI
DIST. TINSUKIA
ASSAM

Advocate for the Petitioner : MRS. R DEVI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 17-11-2023

1. Heard Ms. R Devi, learned counsel for the petitioner. Also heard Mr. D Upamanyu, learned counsel for the Higher Education Department. Ms. Tinlung, learned counsel appears on behalf of Mr. RK Talukdar, learned counsel for the respondent No. 5 while Mr. A Chaliha, learned counsel appears for the respondent No. 4.

2. The petitioner is aggrieved by the letter dated 03.03.2022 issued by the Director, Higher Education Department, Assam which states that as per instructions received vide Government letter No. AHE.65/2021/24 dated 18.08.2021, the Pension and Public Grievances Department expressed its inability to count the service of Sri. Prodip Kumar Khound, retired Associate Professor w.e.f. 30.11.1987 to 31.03.1992 as it did not attract the provisions of Rule 31 of the Assam Services (Pension) Rules, 1969 (hereinafter referred to as the "1969 Rules"). As such, the pension proposal and service book of the

petitioner was returned back to the Principal of Digboi College, with a request to him to re-submit the same directly to the office of the Accountant General, after rectification of all placement order w.e.f. 31.03.1992 instead of 30.11.1987.

3. The petitioner's counsel submits that the petitioner was appointed in Digboi College as Lecturer in the department of Electronics on 10.11.1987, under the UGC approved scheme (Restructuring of Course) and he joined the service on 30.11.1987. The petitioner was granted the UGC scale of pay and other allowances as per State Government Rules till 31.03.1992. The Digboi College received affiliation in respect of the Electronics subject from Dibrugarh University and subject concurrence from the Government of Assam w.e.f. 1988-1999, vide order dated 29.07.1999. During the course of the petitioner's service, his pay was protected and he was placed in the senior scale of pay from the date of his joining the service on 30.11.1987, which was approved by the authorities.

4. The petitioner retired from service on 31.01.2020. However, the petitioner's prayer for payment of pension was denied on the ground that he did not have the qualifying years of service, in view of the fact that the period from 30.11.1987 to 31.03.1992 could not be counted, as he did not attract the provision of Rule 31 of the 1969 Rules.

- 5.** The petitioner's counsel submits that as the petitioner has completed 20 years of service, even if his service is counted from 31.03.1992, pension should be granted to the petitioner in terms of the 1969 Rules.
- 6.** Mr. D Upamanyu, learned counsel for the Higher Education Department submits that there is a request made by the respondent No. 6 to review the impugned order dated 03.03.2022 by the Director, Higher Education Department (respondent No. 3). The respondents' counsel submits that the present writ petition can be disposed of, if a direction is issued to the respondent No. 3, to consider the letter dated 28.04.2022 issued by the Principal & Secretary, Digboi College, to take a decision on the same within a specified time period.
- 7.** The petitioner's counsel does not have any objection to the proposal made by the counsel for the Higher Education Department.
- 8.** It appears from the pleadings on record that the petitioner had served in Digboi College for 32 years, if his service is counted from 30.11.1987. However, if his service is counted from 01.04.1992, he would have served for 28 years. Be that as it may, in view of the consent of the parties, this Court directs the respondent No. 3, to take a decision on the letter dated 28.04.2022 issued by the respondent No. 6, by examining the prayer of the petitioner for payment of pension. The same should be done within a period of 5 (five) weeks from the

date of receipt of a certified copy of this order.

9. The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant