

GAHC010193172020



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

Case No. : WP(C)/61/2021

SUDARSON SINGH CHETRI @ SUDARSON SINGH
S/O LATE SITA RAM SINGH, R/O VILL. GANGAPUR, P.O. BADRIPUR, DIST.
CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, PWD (ROADS AND BUILDINGS) DEPTT., MECHANICAL DIVISION,
DISPUR, GUWAHATI 01

2:THE CHIEF ENGINEER

ASSAM
PWD (R AND B)
CHANDMARI
GHY 03

3:THE COMMISSIONER AND SECY.

PENSION AND PUBLIC GRIEVANCES DEPTT.
ASSAM
DISPUR
GUWAHATI 06

4:THE COMMISSIONER AND SECY.

FINANCE DEPTT.
DISPUR
GHY 06

5:THE ACCOUNTANT GENERAL (A AND E)

ASSAM
MAIDAMGAON
GHY-29

6:THE EXECUTIVE ENGINEER

PWD
(R AND B)
MECHANICAL DIVISION
SILCHAR
CACHAR
ASSAM
PIN SILCHAR 01

7:THE TREASURY OFFICER

CACHAR
AT SILCHAR 01
ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 25-01-2023

25-01-2023

Heard Mr. K.R. Patgiri, learned counsel for the writ petitioner. Also heard Ms. S. Baruah, learned Govt. Advocate, Assam appearing for the respondent No. 3, Mr. R.K. Talukdar, learned counsel representing respondent No. 5 and Mr. P. Nayak, learned standing counsel, PWD, Assam appearing for the official respondents.

The petitioner herein had initially joined as Muster Roll Worker in the Mechanical Sub-Division of the PWD, Silchar at Cachar. Subsequently, he was promoted to the post of

Work Charge Assistant Electrician. As per entry made in the service book, the petitioner's date of birth has been recorded as 01-06-1946. As such, he was made to retire from service on 31-05-2004 upon attaining the age of superannuation, i.e. 58 years. Since then the petitioner is receiving his pensionary benefits. However, after 17 years of his retirement, the petitioner has approached this Court by filing the instant writ petition, *inter alia*, contending that his actual date of birth 31-05-1948 and therefore, his date of retirement would be 31-05-2006. As such, he has been erroneously retired from service 02 years prior to attaining the age of 58 years. On such count, the petitioner has approached this Court seeking an order for granting him corresponding pensionary benefits.

Mr. Nayak, learned standing counsel, PWD submits that the date of birth of the petitioner is recorded in the service book as 01-06-1946 and therefore, the petitioner had retired from service on 31-05-2004. Similar is the stand of Mr. R.K. Talukdar, learned counsel appearing for the respondent No. 5.

Mr. Patgiri has denied and disputed such assertion by submitting that his actual date of birth is 31-05-1948.

There is no doubt or dispute about the fact that this writ petition has been filed almost 17 years after the date of retirement of the petitioner and there is no proper explanation for the delay. Therefore, regardless of the fact as to whether the claim of the petitioner is factually correct or not, this Court is of the opinion that at this distant point of time, the Court can neither enter into such disputed question of fact as regards the correctness of the entry made in the service book nor can there be any grant of

pensionary benefit to the petitioner on the basis of his assertion. This writ petition is liable to be dismissed purely on the ground of delay. I, accordingly, do so.

There would be no order as to cost.

Writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant