

GAHC010198602021



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

Case No. : WP(C)/6910/2021

AJIT DUTTA
S/O LATE HEM CHANDRA DUTTA, R/O B.P. CHALIHA NAGAR, SECTOR-2,
BYE LANE-3, P.O.-TINSUKIA, DIST- TINSUKIA, ASSAM, PIN-786125

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-19
ASSAM

3:DISTRICT ELEMENTARY EDUCATION OFFICER
TINSUKIA PARBOTIA
DIST- TINSUKIA
ASSAM PIN-786125

4:DEPUTY COMMISSIONER
TINSUKIA P.O.-TINSUKIA
ASSAM PIN-786125

5:ASSISTANT DIRECTOR
FOOD AND CIVIL SUPPLIES AND CA
TINSUKIA ASSAM
PIN-786125

6:ENQUIRY OFFICER CUM DEPUTY INSPECTOR OF SCHOOLS
TINSUKIA ASSAM
PIN-78612

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

27-04-2023

Heard Mr. P. Mahanta, learned counsel for the petitioner and Mr. N. J. Khataniar, learned Standing Counsel, Department of School (Elementary) Education for the respondent Nos. 1 to 3 and 6. Also heard Mr. G. Pegu, learned Government Advocate, Assam for the respondent Nos. 4 and 6.

2) While serving as a Lower Division Assistant (LDA)/ Junior Assistant in the office of the District Elementary Education Officer (DEEO) Tinsukia, the Director of Elementary Education, Assam deputed him in the office of the Assistant Director, Food, Civil Supplies and Consumer Affairs, Tinsukia under the Deputy Commissioner, Tinsukia as a Liaison Assistant-cum-LDA under 'Cook mid-day-meal Scheme' in Tinsukia District. Accordingly on 23.03.2007, he was released from the office of the DEEO, Tinsukia.

3) Because of his negligence and habitual absence in duty, the Deputy Commissioner, Tinsukia wrote against the petitioner pursuant to which, he was placed under suspension by the DEEO, Tinsukia vide order dated 13.07.2011.

4) Later, the petitioner was allowed to draw subsistence allowance initially @ Rs.50% and thereafter, @ Rs. 75% of pay plus proportionate amount of other allowances as admissible under the Rules.

5) Disciplinary Proceeding was initiated against the petitioner with 4 charges, to which the petitioner submitted his replies. Even 2nd show-cause notice was issued upon him. Since the Disciplinary Proceeding initiated against the petitioner way back in 2011 and kept the petitioner under suspension for more than 10 years, being aggrieved, the petitioner has preferred this writ petition, praying amongst others, to set aside his

suspension order, pending Departmental Proceeding, to set aside the inquiry report against him as well as the order dated 23.08.2001 issued by the Director of Elementary Education, Assam approving the suspension order of the petitioner dated 13.07.2011 issued by the DEEO, Tinsukia, after more than 10 years, to release his entire salary during the suspension period, till his joining in service from 13.07.2011 to 13.03.2022.

6) The respondent Director of Elementary Education, Assam in the meanwhile, in the concerned Departmental Proceeding found the charges established against the petitioner and under the provisions of the Assam Services (Discipline and Appeal) Rules 1964, by an order dated 06.02.2020 imposed penalty upon him by stoppage of one annual increment with cumulative effect reinstating him in service, posting him as a Junior Assistant in the office of the Deputy Inspector of Schools, Tinsukia in the vacant sanctioned post in the same station pursuant to which, the petitioner joined his service on 13.02.2020. Later, by order No.ECA-10/2019/98 dated 02.02.2022, the Director of Elementary Education, Assam regularised the period of suspension of the petitioner for the period from 13.07.2011 to 13.02.2020 and dropped the Departmental Proceeding drawn against him.

7) In view of the above, the petitioner shall be paid his unpaid dues during the period of his suspension for the period from 13.07.2011 to 13.02.2022 deducting the subsistence allowance of 50% and 75% that were already paid to him.

8) With the above observation, this writ petition stands disposed of to the extent above.

JUDGE

Comparing Assistant