

GAHC010202212021



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

Case No. : WP(C)/6637/2021

TH. BIDYADHAN SINGHA
S/O. LT. KHERO BABU SINGHA, R/O. BINAKANDI PART-I, P.O. BINAKANDI
GHAT, DIST. CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, EDUCATION
(SECONDARY), DEPTT., DISPUR, ASSAM.

2:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY)
DEPTT.
DISPUR
ASSAM.

3:THE DIRECTOR

SECONDARY EDUCATION DEPTT.
KAHILIPARA
GUWAHATI
ASSAM.

4:THE INSPECTOR OF SCHOOLS

C.D.C.
CACHAR
ASSAM

Advocate for the Petitioner : MS. B SARMA

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

O R D E R

14.08.2023.

Heard Ms. B. Sarma, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned standing counsel for the Secondary Education Department.

This writ petition has been filed by the petitioner praying for a direction to the respondents to regularise his service as a teacher of Manipuri Language in Jogai Mathura High School in Cachar District.

Ms. B. Sarma, learned counsel for the petitioner submits that the petitioner was initially appointed by the Managing Committee of the Jogai Mathura High School on 21.08.1986, at a consolidated pay. The petitioner continued in the service without any break to the utmost satisfaction of the authorities from his date of joining from 21.08.1986. Thereafter the petitioner was adjusted against the sanctioned post of Manipuri Language Teacher by the Sanction Order No.EMI.130/79/24, dated 31.03.1980, which was renewed from time to time.

The petitioner thereafter represented before the respondent authorities requesting them to release his regular scale of pay. His representation was duly forwarded to the concerned authorities and the Inspector of Schools, CDC, Cachar vide communication dated 12.09.1990, submitted a report to the Director of Secondary Education to take necessary action for grant of regular

scale of pay to the petitioner. Although several communications/ representations were made from time to time by the petitioner, his prayer for grant of regular scale of pay has not been considered by the authorities.

Thereafter, the Inspector of Schools, CDC, Cachar by the letter dated 27.06.2018, had submitted the necessary particulars and connected papers related for the purposes of grant of regular scale of pay to the petitioner. It is the submission of the learned counsel for the petitioner that although other similarly situated persons have been given the benefit, the prayer of the petitioner was not attended to by the respondent authorities and he continued to render his service in the consolidated pay.

The respondents have filed their affidavit in opposition and in para-6 of the affidavit it is stated that the proposal submitted by the Inspector of Schools, CDC, Cachar at Silchar was forwarded to the Government. The Government thereafter by the letter dated 15.11.2018, directed the Inspector to re-submit the proposal along with the post creation number, last retention number of post, etc. The said details were forwarded by the Inspector by the communication dated 11.12.2018 and the report by the Inspector was submitted on 28.10.2022, which was forwarded to the Government on 18.02.2023. In the meantime, the petitioner had retired from service on 28.02.2022.

The relevant paragraph in the affidavit i.e. para-6 is extracted below:-

“That, the deponent begs to state that the Inspector of Schools, CDC, Silchar submitted a proposal for regularization the service of the petitioner and which was forwarded to the Government vide letter No.GB-EST/Language Teacher/1/2014/63 dated 31.10.2017. Thereafter, Government vide letter No.ASE.428/2013/163 dated 15.11.2018 directed to re-submit the proposal along with the post creation No., last retention No. of post, etc. Accordingly, Inspector of Schools, Cachar was intimated vide communication letter GB-EST/Language Teacher/1/2014/76 dated 11.12.2018 and again vide letter No. GB-EST/Language Teacher/1/2014/pt/81 dated 22.07.2022. The Inspector of Schools, Cachar vide letter No.8044-44 dated 28.10.2022 submitted its

report and the same was forwarded to the Government vide letter No. GB-EST/Language Teacher/1/2014/pt/90 dated 18.02.2023. However, the petitioner was retired from the service on 28.02.2022”.

Learned counsels for the parties have been heard and the record is perused.

It is seen that the Government although belatedly have taken steps for grant of regular scale of pay to the petitioner. The proposal had been given due consideration by the Director of Secondary Education and the report of the Inspector of Schools, CDC, Cachar at Silchar has also been received by the Director. However, because of the delay in processing the case of the petitioner and furnishing the required documents before the competent authority at the appropriate time, the petitioner had superannuated from service on 28.02.2022.

Be that as it may, since the proposal along with the report stated to have been furnished by the Inspector of Schools, CDC, Cachar is stated to be pending before the Secretary to the Govt. of Assam, Department of School Education, it is directed that the proposal forwarded from the Inspector of Schools, CDC, Cachar along with the report and other connected and relevant documents be thoroughly examined and thereupon pass a reasoned order.

If all the relevant documents as called for from the office of the Director of Secondary Education are found in order, the Secretary to the Govt. of Assam, Department of School Education will pass necessary order giving regularization to the petitioner from the date the petitioner was adjusted against the sanctioned post i.e. from 01.03.1980.

In the event, any such order is passed by the Secretary in favour of the petitioner, then the petitioner having superannuated in the meantime, the necessary pensionary benefit/retiral benefits, payable to the petitioner on such

regular scale of pay, should also be released, without further delay.

The above directions shall be carried out by the Secretary within a period of sixty (60) days from the date of receipt of the certified copy of this order.

With the above observation, the writ petition stands closed.

JUDGE

Comparing Assistant