

GAHC010208542023



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

Case No. : WP(C)/5565/2023

DR. ASHOK KUMAR DAS
PRINCIPAL OF R.S GIRLS COLLEGE, KARIMGANJ,
S/O- LATE AKASH CHANDRA DAS ,
R/O- TILAK CHAND ROAD,
P.O AND DIST- KARIMGANJ, ASSAM, PIN-788710

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF HIGHER EDUCATION, BLOCK-C, ASSAM, CIVIL
SECRETARIAT, JANATA BHAWAN,
DISPUR, GUWAHATI ASSAM, PIN- 781006,

2:THE DIRECTOR

HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM

DEPARTMENT OF FINANCE
ASSAM CIVIL SECRETARIAT
DISPUR
GUWAHATI- 781006

4:THE TREASURY OFFICER
KARIMGANJ TREASURY

KARIMGANJ
ASSA

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-09-2023

Heard Mr. A. K. Dutta, learned counsel for the petitioner and Mr. D. Upamannuyue, learned Standing counsel, Higher Education Department of the State for the respondent Nos. 1 & 2. Also heard Mr. A. Chaliha, learned Standing counsel, Finance Department of the State for the respondent Nos. 3 & 4.

2. Matter relates to the claim of arrear salary by the petitioner for the period from 11.09.2017 to 28.02.2021 during which he was under suspension.

3. Petitioner is the Principal of Rabindra Sadan (R.S. in short) Girls College, Karimganj, a provincialised College of the State.

4. Since the petitioner was arrested in connection with Karimganj P.S. Case No. 831/2017 under Sections 352/354(B) IPC read with Sections 67/67(A) of the Information Technology Act, 2000, the Director of Higher Education, Assam by order under Memo No. DHE/CE/Misc/125/2017/34-A dated 11.09.2017 suspended him from service under Rule 6(1) of the Assam Services (Discipline and Appeal) Rules, 1964.

5. Mr. Dutta, learned counsel for the petitioner submits that after investigation of said Karimganj P.S. Case No. 831/2017, the concerned Investigating Officer of the case submitted the final report.

6. Earlier the petitioner approached this Court in WP(C) No. 4447/2019 that was disposed of on 14.12.2020. Pursuant to the said order dated 14.12.2020, in the disciplinary proceeding initiated

against him, the concerned Enquiry Officer, i.e., the Deputy Director of Higher Education, Assam on 27.02.2018 submitted the report observing that the petitioner may be reinstated in his original substantive post of Principal of said R.S. Girls College, Karimganj, subject to the outcome of the Karimganj P.S. Case No. 831/2017 that was registered against him.

7. Since the concerned Investigating Officer submitted the final report in said Karimganj P.S. Case No. 831/2017, corresponding to G.R. Case No. 2001/2017, the Director of Higher Education, Assam by Speaking Order under No. DHE/CE/CC/17/2019/109 dated 23.03.2021 reinstated the petitioner in his original substantive post of Principal of said R.S. Girls College, Karimganj in compliance of the order dated 14.12.2020 passed in said WP(C) No. 4447/2019. Accordingly, the petitioner joined his service as Principal of R.S. Girls College, Karimganj on 25.03.2021

8. Considering the said Speaking Order dated 23.03.2021, noted above, after reinstatement of the petitioner in service as the Principal of said College of Karimganj in pursuance of the order of the Court dated 14.12.2020, he continued to remain as the Drawing and Disbursing Officer towards the payment of salaries to the teaching and the non-teaching staff of the said College.

9. By resolution No. 2 dated 08.07.2021, the Governing Body of said R.S. Girls College, Karimganj treated the period of suspension of the petitioner from 11.09.2017 to 24.02.2021 as on duty.

10. The Director of Higher Education, Assam vide order under Memo No. DHE/CE/CC/17/2019/112 dated 16.03.2022 approved the said resolution No. 2 dated 08.07.2021 of the Governing Body of said College and treated the period of suspension of the petitioner from 11.09.2017 to 24.02.2021 as on duty.

11. It is stated by the petitioner that though he submitted the proposal of his arrear salary for an amount of Rs. 26,68,477/- before the Director of Higher Education, Assam after deducting the subsistence allowance that he had drawn while he was under suspension w.e.f. 11.09.2017 to 28.02.2021 along with the Non-Drawal Certificate, but the respondent authorities in the Directorate of Higher Education, Assam has not yet processed with the said proposal of payment of arrear salary to him inspite of submitting reminder(s).

12. Being aggrieved, the petitioner has preferred this writ petition.

13. After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of at the motion stage itself directing the petitioner to submit a

certified copy of this order along with a fresh proposal of his arrear salary for the period from 11.09.2017 to 28.02.2021 during which he remained under suspension deducting the amount that he had drawn as subsistence allowance along with the Non-Drawal Certificate and other relevant documents before the Director of Higher Education, Assam on or before 30.10.2023 obtaining necessary acknowledgment from the said authority in that regard.

14. Thereafter, the Director of Higher Education, Assam shall duly process with the said proposal of arrear salary of the petitioner for the said period from 11.09.2017 to 28.02.2021, noted above and shall pay the same with due approval of the Finance Department of the State as per the entitlement of the petitioner, following the due procedure and in accordance with law, if there is no other impediment in releasing the same to him. The entire process shall be completed on or before 31.12.2023.

15. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant