

GAHC010237722023



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

Case No. : WP(C)/6339/2023

RUPJYOTI SAIKIA
S/O- LATE RABINDRA NATH SAIKIA,
PERMANENT RESIDENT OF DARANGI CHUK, WARD NO. 14,
P.O. AND P.S.- JORHAT,
DIST.- JORHAT, ASSAM.

VERSUS

THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM AND 3 ORS
URBAN DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DEPUTY DIRECTOR
TOWN AND COUNTRY PLANNING
DISTRICT OFFICE
LAKHIMPUR
DISTRICT- NORTH LAKHIMPUR
ASSAM.

3:THE COMMISSIONER AND SECRETARY
FINANCE (SIU) DEPARTMENT
ASSAM
DISPUR
GUWAHATI-06.

4:UNDER SECRETARY TO THE GOVERNMENT OF ASSAM
URBAN DEVELOPMENT (T) DEPARTMENT
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

18.11.2023

1. Heard Mr. N.J. Dutta, learned counsel for the petitioner, who submits that the petitioner is presently working as Assistant Director in the Directorate of Town & Country Planning, Assam. The petitioner's counsel submits that prior to joining the post of Assistant Director on 31.03.2010, the petitioner was working as Sector Inspector in the Jorhat Development Authority from 13.03.2001. Thereafter he was promoted to the post of Assistant Engineer in the Jorhat Development Authority on 29.11.2002. He joined the present post of Assistant Director in the Directorate of Town & Country Planning, Assam, in pursuance to an advertisement on 31.03.2010.

2. The petitioner's counsel submits that the petitioner's service under the Jorhat Development Authority should be considered as qualifying service for the purpose of pension under the Assam Services (Pension) Rules, 1969 (hereinafter referred to as "the 1969 Rules"). The petitioner's counsels submits that the present case is a covered case, in terms of the order passed in WP(C) No.1680/2012. He submits that in view of the present case being a covered case, the respondent authorities would have to count his past service in Jorhat Development Authority as qualifying service for the purpose of pension. He also submits that though the petitioner had submitted a representation dated 28.11.2011 in this regard, the respondent authorities have not yet been decided

the same till date, despite the said representation having been forwarded by the Director, Town & Country Planning, Assam to the Under Secretary to the Government of Assam, Urban Development (T) Department, Dispur, vide letter no. TP/EST/11/2010/21 dated 11.01.2012.

3. The petitioner's counsel submits that the present writ petition can be disposed of, if the respondents are directed to dispose of the petitioner's representation dated 28.11.2011 or liberty is given to the petitioner to file a fresh representation, with regard to the prayer made in this writ petition.

4. Mr. D. Borah, learned counsel for the respondent nos.1, 2 & 4 and Mr. A. Chaliha, learned counsel for the respondent no.3 submit that they do not have any objection to the prayer made by the petitioner's counsel, provided the petitioner's representation dated 28.11.2011 has not been disposed of already.

5. On considering the submissions made by the counsels for the parties, this Court is of the view that as the petitioner's representation dated 28.11.2011 has not been disposed of by the State respondents and keeping in view the fact that the petitioner is still in service as on date, the petitioner is given the liberty to file a fresh representation with regard to his grievance before the respondent no.4, who shall take a decision on the same by a speaking order, within a period of 1 (one) month from the date of receipt of a certified copy of this order. The above direction is however subject to the condition that the respondents have not taken a decision on the petitioner's representation dated 28.11.2011. If a decision is already taken on the petitioner's representation dated 28.11.2011,

the decision taken should be communicated to the petitioner.

6. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant