

GAHC010251732022



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

Case No. : WP(C)/9/2023

CHANDRA KANTA GOGOI
RETD. KHALASI, A R/O- VILL- LONGPOTIA GAON, P.O. LONGPOTIA, PIN-
785692, P.S. SONARI, DIST.- CHARAIDEO, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PENSION AND
PUBLIC GRIEVANCE DEPTT., DISPUR, GHY-06

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PUBLIC HEALTH AND ENGINEERING DEPTT.
DISPUR
GHY-06

3:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

4:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GHY-29

5:THE CHIEF ENGINEER (PHE)
WATER
ASSAM
HENGRABARI
GUWAHATI
PIN- 781036

6:THE EXECUTIVE ENGINEER
P.H.E.
NAZIRA DIVISION
NAZIRA
ASSAM
PIN- 785685

7:TREASURY OFFICER
SONARI SUB-TREASURY
P.O. SONARI
PIN- 785690
DIST.- CHARAIDEO
ASSA

Advocate for the Petitioner : MR. S D PURKAYASTHA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

04.01.2023

Heard Mr. SD Purkayastha, learned counsel for the petitioner. Also heard Mr. SS Roy, learned Junior Government Advocate for the respondent No.1 being the Pension and Public Grievance Department, Government of Assam, Mr. D Gogoi, learned counsel for the respondents No.2, 5 and 6 being the authorities under the PHED, Mr. R Barpujari, learned counsel for the respondents No.3 and 7 being the authorities under the Finance Department, Government of Assam and Mr. RK Talukdar, learned counsel for the respondent No.4 being the Principal Accountant General (A & E), Assam.

2. The petitioner was appointed as a muster roll khalasi on 01.05.1991 and

by the common order contained in the communication dated 04.10.2005 his services were regularized and the name of the petitioner appears in the list enclosed thereof at Sl.No.16. The petitioner retired from service on 30.10.2016. If the petitioner was appointed on 01.05.1991, regularized on 04.10.2005 and retired from service on 31.10.2016, admittedly, he had the qualifying service of more than 20 years and as such entitled for pension and other pensionary benefits.

3. Although the PHED had processed the pension papers of the petitioner and forwarded it to the office of the Accountant General (A & E), Assam, but it was returned by the communication dated 10.07.2018 of the Senior Accounts Officer. The Senior Accounts Officer in the office of the Accountant General (A & E), Assam was of the view that the fixation of the pay of the petitioner as on 01.04.2016 was not recorded in his service book and the date of initial appointment in the Government approved list as on 01.05.1991 was also not found.

4. It is stated that the authorities in the PHED in the meantime had provided the required information by their communication dated 11.10.2022, annexed as Annexure-7, page 47 to the writ petition. As regards the third reasoning that the petitioner did not have the qualifying service of 20 years, *inasmuch as*, while arriving at the qualifying service for pension, six years of service of the petitioner as muster roll worker was deducted by the Senior Accounts Officer, we are of the view that the said issue had already been decided by this Court in the judgment rendered in *Sanjita Roy Vs. State of Assam* and Others reported in 2019 (2) GLT 805 wherein it is provided that six years of qualifying service of

an employee as a muster roll worker cannot be excluded for the purpose of arriving at the qualifying service for pension. The said judgment also impliedly provides that the entire service of a muster roll worker from the date of his initial appointment up to the date of his retirement should be taken into consideration for the purpose of the qualifying service period for entitlement of pension.

5. Accordingly, the Senior Accounts Officer in the office of the Accountant General (A & E), Assam is directed to process and bring a logical end to the claim of the petitioner for pension within a period of one month from the date of receipt of a certified copy of this order, by taking note that by the communication dated 11.10.2022 the required information had been provided by the PHED and the six years of qualifying service as muster roll worker cannot be deducted to arrive at the total qualifying service.

6. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant