

GAHC010260402022



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

Case No. : WP(C)/122/2023

GHANA KANTA PADUN
S/O- LATE MEMESWAR PADUN,
R/O- DUSUTIMUKH,
P.O- KHUBULIYA,
P.S- DHEMAJI, DIST- DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF PUBLIC HEALTH ENGINEERING, ASSAM
JANATA BHAWAN, DISPUR, GUWAHATI, ASSAM, PIN-781006

2:THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING
ASSAM
HENGRABARI
GUWAHATI
ASSAM
PIN-781036

3:THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING
DHEMAJI DIVISION
DIST- DHEMAJI
ASSAM

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF FINANCE
ASSAM JANATA BHAWAN

DISPUR
GUWAHATI
ASSAM
PIN-781006

5:THE ACCOUNTANT GENERAL (A AND E)

ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI
ASSAM
PIN-781029

6:THE SENIOR ACCOUNT OFFICER
O/O THE ACCOUNTANT GENERAL (A AND E)
MAIDAMGAON
BELTOLA
GUWAHATI
ASSAM
PIN-78102

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, P H E

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

09.01.2023

Heard Mr. S Borthakur, learned counsel for the petitioner. Also heard Mr. SN Hasan, learned counsel for the respondents No.1 to 3, being the authorities under the PHED, Mr. B Gogoi, learned counsel for the respondent No.4 being the authorities under the Finance Department, Government of Assam and Mr. RK Talukdar, learned counsel for the respondents No.5 and 6 being the authorities under the Accountant General (A & E), Assam.

2. The petitioner was appointed as a work charged Khalasi cum Chowkidar in the office of the PHED at Dhemaji Sub-Division on 02.01.1984 in the scale of pay of Rs.370-5-420-7-490/- per month under the jurisdiction of the Executive Engineer, PHED, Dhemaji Division. In the year 1990, the petitioner was made an officiating LDA against a vacant post in the office of the Assistant Executive Engineer PHED Jonai Sub-Division and he continued to work as such. It is stated that the petitioner was also subsequently promoted to the post of UDA by the order dated 30.11.2016. The petitioner thereafter retired from service in the said post on attaining the age of superannuation on 31.10.2021, but no formal order of regularization had been issued in his favour. In the circumstance, the Senior Accounts Officer in the Office of the Accountant General (A & E), Assam had returned back the pension papers of the petitioner.

3. Situated thus, the Executive Engineer PHED Dhemaji Division made a communication dated 11.03.2022 to the Chief Engineer PHED, Water, Assam requesting for a sympathetic consideration for regularization of the services of the petitioner with retrospective effect so that he may be entitled to the pensionary benefits. The Chief Engineer, (PHE), Water, Assam thereafter, passed the order dated 25.08.2022 that he is not the competent authority to consider for retrospective regularization, whereas it is the Government in the PHED to do the needful.

4. In the circumstance, we direct the Commissioner and Secretary to the Government of Assam in the PHED to give a consideration to the proposal of regularization of the services of the petitioner dated 11.03.2022 made by the Executive Engineer, PHED, Dhemaji Division and pass a reasoned order thereon.

The Commissioner and Secretary, if under the law and facts and circumstances of the present case feels that the petitioner is entitled for retrospective regularization, a reasoned order may be passed and in the event, the retrospective regularization cannot be made in the present circumstances, again a reasoned order be passed to that extent and be communicated to the petitioner. The reasoned order be passed within a period of one month from the date of receipt of a certified copy of this order.

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

JUDGE

Comparing Assistant