



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

Case No. : WP(C)/167/2018

SHRI DILIP KUMAR MAZUMDAR
S/O SUDHIR CHANDRA MAZUMDAR, RESIDENT OF DST COLONY,
MOHANBARI, DIST. DIBRUGARH, ASSAM.

VERSUS

THE STATE OF A.P.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF AP, DEPTT. SUPPLY AND TRANSPORT, ITANAGAR, AP. 2:THE
SECRETARY
Age: 0
Occupation :

3:THE DIRECTOR
Age: 0
Occupation :

4:THE DEPUTY DIRECTOR
Age: 0
Occupation :

5:THE JOINT DIRECTOR
Age: 0
Occupation :

6:THE DIRECTOR
Age: 0
Occupation :

7:THE DIRECTOR
Age: 0

Occupation :

8:THE DIRECTOR

Age: 0

Occupation :

9:THE JOINT DIRECTOR

Age: 0

Occupation

Advocate for the Petitioner : MrR Saikia

Advocate for the Respondent : GA

**BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Judgment & Order (Oral)

Date : 13.03.2024

Heard Mr. R. Saikia, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the State respondents.

2. The petitioner, by instituting the present proceeding has prayed for a direction upon the respondent authorities to release to him, his pension and pensionary benefits for the services as rendered by him in the capacity of Store-keeper. The petitioner was initially engaged as LDC against the leave vacancy of one Suprava Deori on temporary basis under the respondent authorities. Such services of the petitioner was extended from time to time. The petitioner in the meanwhile had also appeared in the recruitment process for the post of LDC, although the petitioner contends that he had cleared the various stages of the selection process, but, he was not appointed on regular basis in pursuance to the said

process of recruitment. The petitioner, being aggrieved with regard to the inaction on the part of the respondent authorities in not regularizing his services, he had approached this Court by way of instituting a writ petition being WP(C) No. 151(AP)2007.

3. This Court vide judgment and order dated 16.08.2007, proceeded to dispose of the said writ petition directing the respondent authorities to regularize the services of the petitioner, forthwith, as an LDA. In terms of the said directions passed by this Court, the respondent authorities vide order dated 19.02.2008 proceeded to appoint the petitioner against the post of Store-keeper. The petitioner continued in his service on regular basis in terms of the said order of appointment dated 19.02.2008. The petitioner on appointment on regular basis came to be covered under the National Pension Scheme (NPS) and a unique 16-digit Permanent Pension Account Number (PPAN) was also allotted to the petitioner. The petitioner, thereafter, on reaching the age of superannuation retired from his services w.e.f. 30.01.2017.

4. The petitioner, on his such retirement was authorized a Provisional Retirement Gratuity vide an order dated 15.03.2017. Thereafter, the petitioner represented before the respondent authorities for releasing the amount as accumulated in his pension account under the NPS. Thereafter, the petitioner vide his representation dated 28.08.2017 approached the respondent authorities for being granted normal pension along with full gratuity. The said application of the petitioner not being considered he has instituted the present proceedings.

5. I have heard the learned counsels for the parties as well as perused the materials available on record.

6. The respondents have by way of filing an affidavit in the matter, contended that the petitioner was released the provisional gratuity along with leave encashment as due to him and any amount pending thereon will be released to him shortly. It was contended that the petitioner being covered under the NPS, he would not be covered by the provisions of CCS Pension Rules, 1972 and would not be entitled to monthly pension.

7. The petitioner, admittedly, had joined in his services on regular basis in pursuance to the order dated 19.02.2008 and on the date, he had joined the services as a Government servant, the provisions of the CCS Pension Rules, 1972 was not in force inasmuch as by the said time the provisions of the NPS had been implemented. The petitioner has also withdrawn 60% of the corpus as accumulated in his NPS account.

8. On perusal of the writ petition, it is found that the petitioner has not presented any challenge to the order of his appointment dated 19.02.2008, requiring the same to be so effected with retrospective effect. This Court also while directing for the regularization of the services of the petitioner vide the order dated 16.08.2007, passed in WP(C)151(AP) 2007 had required such regularization of services to be effective with prospective effect only.

9. In the above view of the matter, in absence of any materials brought on record, including a challenge to grant retrospective effect to the order dated 19.02.2008, the petitioner has to be deemed to have entered into Government service only in pursuance to the said order of appointment dated 19.02.2008 and accordingly, the provisions of CCS Pension Rules, 1972, not being applicable to such appointees as on the said date when the petitioner was so appointed against a sanctioned vacant post, he cannot be deemed to be covered under the provisions of the said rules CCS Pension Rules, 1972 and would not be entitled to receive monthly pension.

10. The petitioner having already being granted the due benefits as applicable to him under the NPS and the petitioner having not raised any grievance in this regard, no further order is called for in the matter requiring the respondent authorities to extend to the petitioner coverage under the provisions of the CCS Pension Rules, 1972.

11. In view of the above conclusions, the contentions raised by the petitioner in the present writ petition does not merit acceptance. Accordingly, the writ petition stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant