

GAHC010030722022



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

Case No. : WP(C)/1371/2022

AJIT DUTTA

S/O- LATE HEM CHANDRA DUTTA, R/O- B.P. CHALIHA NAGAR, SECTOR-2,
BYE LANE-3, P.O. AND DIST. TINSUKIA, ASSAM, PIN- 786125.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-19
ASSAM

3:DISTRICT ELEMENTARY EDUCATION OFFICER
TINSUKIA
PARBOTIA
DIST. TINSUKIA
ASSAM-786125.

4:DEPUTY COMMISSIONER
TINSUKIA
P.O. TINSUKIA
ASSAM
PIN- 786125.

5:ASSISTANT DIRECTOR

FOOD AND CIVIL SUPPLIES AND CA
TINSUKIA
ASSAM

PIN- 786125.

6:ENQUIRY OFFICER CUM DEPUTY INSPECTOR OF SCHOOLS
TINSUKIA
ASSAM
PIN- 786125

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

21.03.2024

Heard Mr. P Mahanta, learned counsel for the petitioner and Mr. P N Sarma, learned Standing Counsel, Elementary Education Department.

By filing this writ petition, the petitioner has challenged the Order dated 02.02.2022 (Annexure-17) by which, the period of his suspension have been regularized for all purposes except for the penalty imposed upon him vide Order dated 06.02.2020 i.e., stoppage of annual increment with cumulative effect. The learned counsel for the petitioner submits that although some enquiry was done, but the enquiry report was not furnished to him. The petitioner, however, managed to get a copy of the enquiry report and upon perusal of the same found that there was no finding or conclusion made against him. Despite the same, his annual increment has been stopped.

Mr. P N Sarma, learned Standing Counsel, Elementary Education Department submits that the entire period of suspension of the petitioner has already been regularized by the authority concerned but however, as the petitioner remained absent unauthorisedly and therefore, his annual increment was stopped. The Order dated 02.02.2022 therefore requires no interference. The enquiry report said to have been submitted by the enquiry officer is annexed as Annexure-10 in the writ petition. From a perusal of the same, what is seen to be recorded is that the Committee after careful observation of the available evidence related to the case found that the petitioner has remained suspended for 8 years 3 months and therefore, his reinstatement into service was recommended with the stoppage of one increment. The so called enquiry report can hardly be construed as an enquiry report to justify the penalty imposed since there is no specific finding arrived at by the enquiry officer or the enquiry committee. It merely states that since the petitioner has been suspended for a long period of time, he should be reinstated with a penalty of stoppage of one increment. The same in the considered view of this Court cannot be sustained and accordingly, the consequential order passed vide Order dated 06.02.2020 (Annexure-11) and the Order dated 02.02.2022 (Annexure-17) are hereby set aside.

The respondents are directed to pass consequential orders to regularize the pay of the petitioner within one month from the date of receipt of a certified copy of this order. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant