

GAHC010065382023



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

Case No. : WP(C)/1741/2023

PRAFULLA BORAH
S/O- LATE SOMESWAR BORAH, R/O- KAMALA NAGAR, HARIGAON, P.O.
AND P.S. TEZPUR, DIST.- SONITPUR, ASSAM

VERSUS

THE TEZPUR UNIVERSITY AND 2 ORS
REP. BY THE REGISTRAR OF TEZPUR UNIVERSITY P.O. NAPAM AND P.S.
BORGHAT, DIST.- SONITPUR, ASSAM, PIN- 784028

2:THE VICE CHANCELLOR
TEZPUR UNIVERSITY P.O. NAPAM AND P.S. BORGHAT
DIST.- SONITPUR
ASSAM
PIN- 784028

3:THE REGISTRAR
TEZPUR UNIVERSITY P.O. NAPAM P.S. BORGHAT
DIST.- SONITPUR
ASSAM
PIN- 78402

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER**

15.05.2024

Heard Mr. S. Borthakur, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned CGC appearing on behalf of all the respondents.

2. The petitioner was appointed as a Section Officer on 14.03.1997 by the Registrar of Tezpur University. Thereafter, the petitioner was promoted to the post of an Assistant Registrar (Officiating) by order dated 05.03.2009 issued by the Registrar of Tezpur University. The petitioner was allowed to officiate as a Deputy Registrar in the respondent University by office order dated 17.06.2019. On attaining the age of superannuation, the petitioner by Office Order dated 31.12.2021 was released from Tezpur University service w.e.f. 31.12.2021.

3. The only question involved in the present writ petition is whether the petitioner is entitled for one notional increment w.e.f. 01.01.2021 to 31.12.2021 considering the fact that the petitioner retired on 31.12.2021. It is submitted that the petitioner approached the respondent authority seeking 1 (one) year increment, however the same was denied vide communication dated 25.10.2022 by referring that "*there is no rules or specific order issued by the Government of India regarding grant of notional increment on the date of retirement on 30th June/31st December.*" After the 6th Pay Commission, the Central Government

fixed 1st July as the date of increment of employees by amending Rule 10 of the Central Civil Service (Revised Pay) Rules, 2008 (in short Rules of 2008). Due to the amendment, the petitioner was denied the last increment though he completed one full year in service i.e. from 01.01.2021 to 31.12.2021. Being aggrieved, the petitioner is before this Court by way of this present writ petition.

4. In the present case in hand, the petitioner retired on 31.12.2021. As per Rules of 2008 increment has to be given to the petitioner only w.e.f. 01.07.2020. However, as the petitioner had superannuated on 31.12.2021, the same was refused.

5. The learned CGC appearing for the respondents does not deny that the petitioner had completed 1 (one) year of service. However, it is submitted that in terms of the Government of India Office Memorandum dated 03.02.2021, the petitioner cannot be allowed notional increment on 30th June/31st December as he ceased to be an employee of the University from the afternoon of 31.12.2021. This is the only stand taken by the respondent to deny the annual increment w.e.f. 01.01.2021 to 31.12.2021.

6. This Court has considered the judgment of Madras High Court in WP(C) 15732/2017 (P. Ayyamperumal v. Registrar, CAT), wherein, in similar situation, Hon'ble Madras High Court has given relief to the said petitioner by giving him

one notional increment on the ground that the said petitioner had completed one year of service on the date of his retirement though the date of increment falls on the next date of his retirement.

7. In similar cases, the High Court of Delhi in WP(C) 10509/2019 (*Gopal Singh – vs- Union of India and Ors.*) has also passed similar judgment taking into account the judgment passed in P. Ayyamperumal (supra) of the Madras High Court.

8. After considering the judgment of the Madras High Court as well as the Delhi High Court, this Court is of the view that the facts in the present case is also identical to the facts in the petition before the Madras High Court as well as the Delhi High Court.

9. In the said circumstance, the respondents are directed to give one notional increment for the period 01.01.2021 to 31.12.2021 as the petitioner has already completed 1 (one) full year of service though his increment fall only on 01.01.2022 for the purpose of pensionary benefits and not for any other purpose.

10. The writ petition is allowed. However, no order as to costs.

JUDGE

Comparing Assistant