

GAHC010126482022



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

Case No. : WP(C)/4311/2022

BISHNU RAM GOGOI
SON OF LATE KALIMON GOGOI, RESIDENT OF RAJADUWAR G.SA ROAD,
BARICHUK, NORTH GUWAHATI, DISTRICT- KAMRUP, ASSAM- 781030.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM IN THE DEPARTMENT OF CULTURAL AFFAIRS,
DISPUR, GUWAHATI, ASSAM- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI
ASSAM- 781006.

3:THE DIRECTOR
CULTURAL AFFAIRS
GOVERNMENT OF ASSAM
RABINDRA BHAWAN
GUWAHATI
KAMRUP
ASSAM- 781001.

4:THE ACCOUNTANT GENERAL (A AND E)
ASSAM.
MAIDAMGAON
BELTOLA
GUWAHATI
KAMRUP

ASSAM- 781029.

5:THE PRINCIPAL
LUIT KONWAR RUDRA BARUA STATE COLLEGE OF MUSIC
ASSAM
PANJABARI
SILPAGRAM ROAD
GUWAHATI
KAMRUP
ASSAM- 781037.

6:THE TREASURY OFFICER
KAMRUP TREASURY
GUWAHATI
KAMRUP
ASSAM- 781001

Advocate for the Petitioner : MR. D K BHATTACHARYYA, MR A ATREYA

Advocate for the Respondent : GA, ASSAM, SC, FINANCE,SC, AG

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 23/10/2024

Heard Mr. D.K. Bhattacharyya, learned counsel for the writ petitioner. Also heard Mr. J.K. Goswami, learned Additional Senior Government Advocate, Assam, appearing for the respondent nos. 1, 2 & 3, Mr. B. Chakravarty, learned Standing Counsel, Office of the AG(A&E), Assam, representing the respondent no. 4 and Mr. A. Chaliha, learned Standing Counsel, Finance Department, Assam, representing the respondent no. 6. None has appeared on behalf of the respondent no. 5 when the matter was called up for consideration today.

The writ petitioner herein, who was serving in the post of Library Assistant in the Luit Konwar Rudra Barua State College of Music, Assam at Guwahati, had retired from service after attaining the age of superannuation with effect from 31/05/2019. According to the petitioner, he is entitled to

receive pension besides other retiral benefits, such as, DCRG, Leave salary etc. However, since his retirement, the petitioner has only been provided with provisional pension. His pension is yet to be finalized. The delay in finalization of petitioner's pension allegedly is on account of the fact that there is an audit exercise going on pertaining to the Cash Register handled by the petitioner.

Mr. Bhattacharyya submits that there is neither any departmental proceeding nor any criminal proceeding initiated against the petitioner, inasmuch as, after the lapse of 4 (four) years since his retirement, no such proceeding can be initiated as on date. Notwithstanding the same, merely taking the plea of audit exercise, the petitioner has been denied the benefit of regular pension and other retirement benefits causing serious prejudice to his interest. As such, a prayer has been made to issue a direction upon the authorities to conclude the audit exercise in a time bound manner and thereafter finalise the pension of the petitioner, in accordance with law.

The learned counsel for the respondents have submitted that as soon as the audit exercise is completed, the pension claim of the petitioner will be processed, in accordance with law. The stand of the respondent nos. 3 & 5, as reflected in the counter affidavit is available at paragraph 7. The relevant part of paragraph 7 is reproduced herein below for ready reference :-

“As stated above, the provisional pension has already been sanctioned against the petitioner (w.e.f. 1st June 2019), which he is availing and will avail every month till the finalization of Pension. His DCRG will be finalized after the finalization of financial matter w.e.f. March 2013 to May 2019. The financial matter of the petitioner w.e.f. March 2013 to May 2019 is under Audit observation and only after receipt of report from Audit, the matter can be settled. The Accountant General (A&E) Audit is going on in the College from 10/07/2024 and after receiving Audit report steps will be taken accordingly regarding final pension of the petitioner.”

From the above, it is apparent that only because there is some audit observation pertaining to financial matters pertaining to the petitioner, his pension has not been finalized till today. It has,

however, not been denied or disputed that neither any departmental proceeding nor any criminal proceeding is pending against the petitioner pertaining to the aforesaid transactions. If that be so, the audit exercise cannot, in the opinion of this Court, can be prolonged indefinitely so as to deny the benefit of pension to the petitioner, which he otherwise is entitled to receive under the law.

In view of the above and taking note of the submission made at the Bar, this writ petition is hereby disposed of with a direction upon the respondents to conclude the audit exercise, as expeditiously as possible, but not later than 60 (sixty) days from the date of receipt of a certified copy of this order. The pension claim of the petitioner including claim for other retirement dues, if any, be processed in accordance with law and finalise within a further period of 60 (sixty) days thereafter.

With the above observation, this writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant