

GAHC010163692020



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

Case No. : WP(C)/4858/2020

KALAM SINGH TIMUNG
S/O- LT. SARSING TIMUNG, R/O- BOKOLIA, P.O. AND P.S. BOKOLIA, DIST.-
KARBI ANGLONG, PIN- 782482

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HOME DEPTT.,
DISPUR, GHY-6

2:THE COMMISSIONER SECRETARY
FINANCE DEPTT. TO THE GOVT. OF ASSAM
DISPUR
GHY-6

3:THE DIRECTOR GENERAL OF POLICE
ASSAM ULUBARI
GHY-07

4:THE SUPERINTENDENT OF POLICE
S.B.(E)
ASSAM
KAHILIPARA
GHY-19

5:DIRECTOR OF PENSION
HAVING ITS OFFICE AT HOUSEFED
GUWAHATI-78100

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 05.02.2024

Heard Mr. M. Sarania, learned counsel for the petitioner. Also heard Mr. T. C. Chutia, learned additional senior Government Advocate appears for respondent Nos. 1, 3 and 4; and Mr. R. Borpujari, learned standing counsel, Finance for respondent No.2.

2. This writ petition is filed by the petitioner with the limited prayer for sanction of his pension, leave encasement, retired gratuity and other service benefit. An interim prayer was also made for release of provisional pension.

3. The writ petitioner was serving as a member of the Armed Branch (A/B) constable, having been appointed in the year 1984 under the 9th Assam Police Battalion, Headquarter stationed at Barhampur, Nagaon. Subsequently, he was promoted to the post of Havildar and posted as P.S.O. (Personal Security Officer) under the control of the Superintendent of Police, S.B. (E) in Assam, Kahilipara.

4. As the petitioner was approaching his superannuation, he was served with the communication dated 26.11.2019 by the competent authority, indicating his date of superannuation. The name of the petitioner appeared in the said communication at serial number 19, showing his date of superannuation to be 30.06.2020. Subsequently the petitioner was superannuated on 30.06.2020. However, his retiral benefits have not been released, although he was entitled to such benefits immediately upon his retirement.

5. Upon making necessary enquiries as to why his pension and other services benefits have not been released, the petitioner was intimated that he was required to submit required particulars and declaration papers etc. to the department prior to superannuation. Petitioner was informed that his relevant particulars and declaration papers were not submitted.

6. The learned counsel for the petitioner submits that there is no adverse remark or any pending disciplinary action against him by the department. It is submitted that prior to superannuation, government servant is required to be informed of the necessary documents or papers, which are required to be submitted before the competent authority for grant of pension. The petitioner submits that he has rendered his service for 36 years as Constable in the Armed Branch of the Assam Police Battalion, Headquarter stationed at Barhampur, Nagaon and there is no bar on his entitlement for pension and other retirement benefits under the Rules of the Assam Services (Pension) Rules, 1969. For no fault of him, his claim of pension cannot be taken away. Under such circumstances, the petitioner is before this Court by filing the writ petition.

7. The respondent No.4 has filed an affidavit, wherein at paragraph 5 there is an averment that pursuant to verification of the papers and requisitioning of the relevant documents from various sections, the true copies of the service sheet have been received and as per his service sheet, his date of birth is shown as 1st January 1960, and therefore he ought to have retired on 31st of December, 2019 instead of 30.06.2020. The date of birth was mismatched with the PAN Card of the petitioner, where his date of birth was shown as 02.02.1960 and on the original General Provident Fund balance sheet his date of birth was shown as 1st January/1960 for which his leave encashment, GIS, DCRG benefits and

final GPF could not be released but the provisional pension was granted to him.

8. Learned counsels for the parties have been heard. Pleadings on record have been carefully perused. From the averments made in the affidavit, it is seen that the date of birth has now been finalized. The correct date of birth has come to the knowledge of the department from the true copies of the service sheet received, wherein it is reflected that his date of birth is 1st January, 1960. Accordingly, the department will now proceed to release his regular pension in terms of the provisions of the Assam Services (Pension) Rules, 1969 without any further delay, after due adjustment of the amount released as provisional pension.

9. Department will release the pensionary and other and other retiral benefits of the petitioner within a period of 60 (sixty) days from the date of receipt of a certified copy of this order.

10. Writ petition, is accordingly, stands disposed of. No order as to cost.

JUDGE

Comparing Assistant