

GAHC010217352023



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

Case No. : WP(C)/5765/2023

RAMENDRA NATH BAISHYA
S/O LATE U.N. BAISHYA, R/O KUNDIL NAGAR, 11TH BYE LANE, H/NO. 34,
GUWAHATI, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE (KDC)
AMINGAON
GUWAHATI-31
DIST- KAMRUP (R)
ASSAM

4:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF PENSIONS AND PUBLIC GRIEVANCES
GOVERNMENT OF ASSAM
HOUSEFED COMPLEX
BELTOLA
GUWAHATI-781006

5:THE COMMISSIONER AND SECRETARY TO THE DEPARTMENT OF
FINANCE

GOVERNMENT OF ASSAM
GUWAHATI-06

6:THE ACCOUNTANT GENERAL (A AND E)
MAIDAMGARH
BELTOLA
GUWAHATI

7:PRINCIPAL
KARARA HIGH SCHOOL
KARARA
KAMRUP (R)-78138

Advocate for the Petitioner : MR G K DEKA, S RABHA,MR. A M BARUAH,MR C GOGOI

Advocate for the Respondent : SC, SEC. EDU., MR. B PURKAYASTHA(R-7),SC, AG,SC,
FINANCE,GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

24.09.2024

ORDER

Heard Mr. A.M. Baruah, learned counsel for the petitioner. Also heard Ms. D. Mushahary, learned Standing Counsel, Secondary Education Department, Government of Assam, for respondent Nos.1 to 3; Mr. P. Saikia, learned Government Advocate, Assam, for respondent No.4; Mr. C. Baruah, learned Standing Counsel, AG, for respondent No.6 and Mr. B. Purakayastha, learned counsel for respondent No.7.

2. The petitioner was initially appointed as a Subject Teacher of Zoology in Makhibaha Higher Secondary School by an order dated 22.02.1985 to which post he joined on 01.03.1985. Thereafter, after serving for a period of about one year, the petitioner was transferred to Karara Higher Secondary School by an order dated 20.05.1986. In the meantime, the Inspector of Schools, Kamrup District

Circle, Amingaon issued an Advertisement for appointment of regular Principal of Karara Higher Secondary School. The petitioner, accordingly, applied for the said post and after going through a regular selection process, the petitioner was appointed as Principal on regular basis and posted in Karara Higher Secondary School, Kamrup (R) by an order dated 02.05.2017 issued by the Director of Secondary Education, Assam.

3. The appointment of the petitioner as Principal of Karara Higher Secondary School was challenged by one Pradip Kumar Goswami by filing WP(C) No.2631/2017, which was disposed of by order dated 13.06.2019 wherein this Court interfered with the appointment of the petitioner as Principal and the order dated 02.05.2017 by which the petitioner was appointed as Principal, Karara Higher Secondary School was set aside and quashed.

4. Being aggrieved with the order dated 13.06.2019 passed by this Court in WP(C) No.2631/2017, the petitioner herein who was the respondent No.6 in the said writ petition preferred a Writ Appeal being WA No.172/2019 which was disposed of by order dated 11.12.2019 whereby the Writ Appeal filed by the petitioner was dismissed. In the meantime, pending disposal of the Writ Appeal, the petitioner retired from service on 30.09.2019.

5. The grievance of the petitioner in the present writ petition is that the pension and other pensionary benefits have not been granted to the petitioner despite retiring from service on 30.09.2019.

6. The respondent No.7 has filed affidavit-in-opposition and Mr. B. Purakayastha, learned counsel appearing on behalf of respondent No.7 submits that as the appointment of the petitioner by the order dated 02.05.2017 as Principal, Karara Higher Secondary School has been set aside in WP(C) No.2631/2017 and the Hon'ble Division Bench has also dismissed the Writ Appeal

filed by the petitioner, the respondent No.7 is not in a position to issue Non-liability certificate particularly for the period from 03.05.2017 till the date of retirement of the petitioner, i.e., 30.09.2019. Accordingly, the respondent No.7 has written a letter dated 13.06.2023 to the Inspector of Schools, KDC, Amingaon followed by another letter dated 22.06.2023 to the Director of Secondary Education, Assam seeking clarification with regard to re-fixation of the salary of the petitioner. He submits that for issuing Non-liability certificate, the period has to be cleared by the Audit Department first and only thereafter, the respondent No.7 can issue a Non-liability certificate. He further submits that the respondent No.7 is willing to settle the pension of the petitioner only after the authorities clarify the status of the petitioner on the date of his retirement.

7. Responding to the submissions made by learned counsel for the respondent No.7, Mr. Baruah, learned counsel for the petitioner, submits that the petitioner is seeking for his pensionary benefits in the status of a Subject Teacher inasmuch as his appointment as Principal of Karara Higher Secondary School has already been interfered with by this Court and, therefore, there is no impediment on the part of the respondents to process the pension papers of the petitioner in the status of a Subject Teacher.

8. Mr. C. Baruah, learned Standing Counsel, AG, submits that the GPF amount amounting to Rs.10,35,705/- has already been paid to the petitioner by letter dated 09.12.2022.

9. Recording the submissions made by the learned for the petitioner, this writ petition is disposed of directing the respondent No.7/Principal, Karara Higher Secondary School to forthwith process the pension papers in respect of the petitioner in the status of a Subject Teacher of Karara Higher Secondary School to the Inspector of Schools, Kamrup District Circle, Amingaon. Let such steps be taken

and completed within two weeks from the date of receipt a copy of this Court's order. Thereafter, the respondent No.3/Inspector of Schools, Kamrup District Circle, Amingaon shall take steps for forwarding the pension papers to the concerned authorities for finalizing the pension papers within two weeks from the date of receipt of the pension papers from the respondent No.7. The whole process of payment of pension to the petitioner should be completed within a period of two months from the date of receipt of pension papers from the respondent No.7.

10. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant