

GAHC010234152024



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

Case No. : WP(C)/5755/2024

PRADIP SARKAR
S/O LATE DHIRENDRA CHANDRA SARKAR,
R/O DR. SHYAMA PRASAD PALLY, BADARPUR, P.O.ANDP.S. BADARPUR,
DIST. CACHAR, ASSAM, PIN-788806

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SPECIAL SECRETARY TO
THE GOVT. OF ASSAM, PUBLIC WORKS DEPARTMENT (N.H. AND
BUILDING), ASSAM SECRETARIAT, DISPUR, PIN-781006.

2:THE CHIEF ENGINEER (NATIONAL HGHWAY WORKS)

CHANDMARI
GUWAHATI-781003

3:THE EXECUTIVE ENGINEER

PWD
KARIMGANJ
N.H. DIVISION
SUBHASH NAGAR

KARIMGANJ
PIN-788710

4:COMMISSIONER AND SECRETARY

FINANCE DEPARTMENT
DISPUR
ASSAM

ASSAM SECRETARIAT
DISPUR
PIN-78100

For the Petitioner(s) : Mr. S.P. Choudhury, Advocate
For the Respondent(s) : Mr. R. Borpujari, SC, Finance Department
Ms. M. Das, SC, PWD

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 08.11.2024

Heard Mr. S.P. Choudhury, the learned counsel appearing on behalf of the petitioner.

2. Ms. M. Das, the learned Standing Counsel, PWD appears on behalf of the respondent Nos. 1, 2 and 3 and Mr. R. Borpujari, the learned Standing Counsel, Finance Department appears on behalf of the respondent No. 4.

3. Taking into account the issue involved and the urgency expressed the matter is taken up for disposal at this motion stage itself. The petitioner herein claims on the basis of his admit card issued by the Board of Secondary Education that his age as on 01.03.1979 was 14(fourteen) years 2(two) months. He therefore, submits that taking into account the Office Memorandum dated 31.10.2012, the petitioner ought to retire from his service on attaining the age of 60 (sixty) on 31.01.2025. However, the Executive Engineer, PWD, Karimganj, National Highway Division, who is the respondent No. 3 had issued a communication to the petitioner on 08.11.2023, that his date of superannuation would be 31.12.2024. The petitioner thereupon, submitted representations before the authorities concerned on 10.01.2024 as well as on 30.09.2024,

however, the same have not been taken into consideration for redressal of the grievance of the petitioner. It is under such circumstances, the petitioner is before this Court.

4. This Court has duly heard the learned counsel appearing on behalf of the petitioner and the learned counsels appearing on behalf of the respondents. This Court has also duly taken note of the Office Memorandum dated 31.10.2012, from where it appears that if a Government servant whose date of birth falls on the first day of any month, the said Government servant shall attain the age of superannuation on the afternoon of the last date of the preceding month and if a government servant whose date of birth falls on days other than the first day of the month shall attain the age of superannuation on the last day of the month.

5. It is also seen from the Office Memorandum that there are illustrations also given, wherein it has been mentioned that if in the admit card the age of the government servant is shown as 15(fifteen) years 10(ten) months 1(one) day on 01.03.1999, his date of birth should be concluded as 01.05.1983 and the government servant shall retire on superannuation on 30.04.2043. On the other hand, if the government servant age was shown in the admit card as 15(fifteen) years 10(ten) months on the 01.03.1999, his date of birth should be presumed as 02.05.1983 and the government servant shall retire on 31.05.2043.

6. The learned counsel appearing on behalf of the petitioner therefore, submitted in the instant case that from the perusal of the said admit card of the petitioner it would be seen that the petitioner is 14(fourteen) years 2(two) months as on 01.03.1979 and, as such, his date of birth has to be presumed as 02.01.1965 and, as such, the petitioner date of retirement would be on 31.01.2025.

7. This Court upon hearing the learned counsels appearing on behalf of the parties is of the opinion that the submission so made by the petitioner merits considerable as such the Authorities are therefore, required to look into the representation so submitted by the petitioner, in view of the Office Memorandum dated 31.10.2012.

8. Accordingly, the instant writ petitions stands disposed of by directing the respondent Nos. 2 and 3, to duly take note of the representation so submitted by the petitioner dated 10.01.2024 as well as 30.09.2024, along with the Office Memorandum dated 31.10.2012. The same be done within a period of 2(two) weeks from the date of submission of a certified copy of the instant order.

9. The petitioner is also given the liberty to file a separate representation along with the certified copy of this order.

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

JUDGE

Comparing Assistant