

GAHC010254632023



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

Case No. : WP(C)/6579/2023

AKANTI SAIKIA
DAUGHTER OF LATE SUT RAM SAIKIA, RESIDENT OF VILL.- BASKULAI,
P.S.- JAGIROAD, DISTRICT- MORIGAON, ASSAM.

VERSUS

1: THE STATE OF ASSAM AND 4 ORS TO BE REPRESENTED BY SECRETARY
TO THE GOVT. OF ASSAM, EDUCATION ELEMENTARY DEPARTMENT,
DISPUR, GUWAHATI-06.

2:DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA GUWAHATI-19.

3:DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON ASSAM.

4:BLOCK ELEMENTARY EDUCATION OFFICER
MAYONG MORIGAON ASSAM.

5:BOARD OF SECONDARY EDUCATION TO BE REPRESENTED BY ITS
SECRETARY BAMUNIMAIDAM GUWAHATI-21

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 22-03-2024

Heard Mr. L.R. Mazumdar, learned counsel for the petitioner. Also heard

Ms. S. Chutia, the learned standing counsel, Education (Elementary) Department, representing the respondent Nos.1 to 4 and Mr. D.K. Roy, the learned standing counsel, SEBA, representing the respondent No.5.

The grievance as raised by the petitioner herein pertains to the unilateral change of her date of birth as recorded in her Service Book by the respondent authorities, which the petitioner claims to have been so done without any jurisdiction.

The petitioner had appeared for her HSLC Examination in the year 1983 from Swahid Surya Bora High School, Morigaon. However, she was unsuccessful in her such attempt and thereafter she appeared in the compartmental examination held. On 30.09.1986, the petitioner joined as a founder Teacher of Sonaruguri L.P. School, which was provincialised w.e.f. 01.01.2013. The services of the petitioner were also provincialised w.e.f. 01.01.2013. It is the contention of the petitioner that upon provincialisation of her services, the Service Book was opened by the School Authorities and therein her date of birth came to be recorded as "01.01.1967" purportedly basing on some HSLC Pass Certificate. The petitioner accordingly continued in her services with the said date of birth, i.e. 01.01.1967, however, on 05.04.2023, she was issued with a communication by the Block Elementary Education Officer, Mayong, Morigaon requiring her to submit her HSLC Certificate. It is noticed from the said communication that earlier the petitioner was also directed to submit such documents, which the petitioner failed to do so.

Accordingly, the Block Elementary Education Officer, Mayong, Morigaon, vide the communication dated 27.04.2023, on receiving clarifications from the authorities of the Board of Secondary Education (SEBA), Assam that the petitioner's date of birth as per their records would be "01.03.1963",

proceeded to inform the petitioner that she would retire from her services w.e.f. 31.03.2023 on attaining the age of superannuation by reckoning her date of birth to be 01.03.1963. Accordingly, the petitioner superannuated from her services on 31.03.2023 and the present proceedings were initiated against the action in purportedly prematurely retiring the petitioner from her services.

Mr. D.K. Roy, learned standing counsel, SEBA, as required by this Court vide order dated 17.11.2023, has placed on record the instructions received by him from the Secretary, SEBA.

Perusal of the said instructions revealed that the age of the petitioner as on 01.03.1983 was recorded, in the records of SEBA, as "20 years 0 months 0 days". Reckoning the said information, the date of birth of the petitioner would be "01.03.1963". The said position being a revelation made from the records maintained by an authority so authorized to do so and the petitioner not having brought on record any other material to justify that the date of birth as recorded by SEBA in its records pertaining to her HSLC Examination was erroneous, this Court is required to accept the clarification with regard to the date of birth as furnished by the authorities of SEBA. Accordingly, this Court holds that the date of birth of the petitioner is "01.03.1963".

This brings the Court to consider the submission made by the learned counsel for the petitioner that the authorities in the Elementary Education Department had unilaterally changed her date of birth as recorded in her Service Book.

It is seen from the communication brought on record in the writ petition that the Departmental Authorities were repeatedly requiring the petitioner to place on record her HSLC Certificates, which she admittedly failed to bring on record and accordingly it is seen that the Departmental Authorities

had approached the SEBA seeking a clarification in the matter and on receipt of a clarification that the date of birth of the petitioner according to their records worked out to "01.03.1963", proceeded to take steps for superannuation of the petitioner from her services. The steps as taken in the matter is not a one of unilateral change but one of correction of the records pertaining to the date of birth of the petitioner as maintained by the authorities of the Elementary Education Department basing on cogent material as revealed from the records of SEBA, Assam.

In view of the said position, the contention as raised by the petitioner in the writ petition does not merit acceptance. The writ petition is held to be devoid of any merit and the same accordingly stands dismissed. However, there would be no order as to cost.

It is to be noted that the petitioner having superannuated from her services on 31.03.2023, the respondent authorities are now required to process her pension and pensionary benefits by reckoning her said date of superannuation and to release to her the same expeditiously, if not already done.

The copy of the communication dated 14.11.2023 as furnished by Mr. D.K. Roy, learned standing counsel, SEBA, is kept on record and marked as "X".

JUDGE

Comparing Assistant