

GAHC010267712022



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

Case No. : Cont.Cas(C)/8/2023

HAYA NAMPUI

S/O LATE P.C. ROYA NAMPUI, VILL- NEW SANGBAR, P.O. AND P.S.-
UMRANGSO, DIST-DIMA HASAO (ASSAM), PIN-788931

VERSUS

SYEDIN ABBASI, IAS AND 6 ORS

THE COMMISSIONER SECRETARY TO THE GOVT. OF ASSAM, PUBLIC
HEALTH ENGINEERING DEPARTMENT, DISPUR, ASSAM, GUWAHATI-06

2:DIGANTA KUMAR BARUAH

THE CHIEF ENGINEER (PUBLIC HEALTH ENGINEERING)

ASSAM

HENGRABARI

GUWAHATI-36

3:BOJOY BORDOLOI

THE EXECUTIVE ENGINEER

(PUBLIC HEALTH ENGINEERING)

UMRANGSO DIVISION

UMRANGSO

ASSAM

4:DEEPAK NARAIN

THE ACCOUNTANT GENERAL (A AND E)

ASSAM

MAIDAMGAON

BELTOLA

GUWAHATI-29

5:MANISH THAKUR

THE COMMISSIONER AND SECRETARY

FINANCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6

6:AKHIL SHARMA
THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-06

7:MUKUT KEMPRAI
THE PRINCIPAL SECRETARY
DIMA HASAO AUTONOMOUS COUNCIL
HAFLONG
DIST-DIMA HASAO
ASSA

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : P. NAIDING (r-3)

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 29-01-2024

Heard Mr. P.J. Saikia learned counsel for the petitioner. Also heard Mr. D Saikia, learned Advocate General, Assam, Mr. R.M. Das, learned counsel for respondent No.3 and Mr. R.K. Talukdar, learned counsel for the respondent No.4.

The present contempt petition is filed alleging willful and deliberate violation of the order dated 28.09.2022 passed in WP(C) No.6462/2022.

The operative portion of the order is quoted herein below:

“Considering the matter in its entirety, we are of the view that as the petitioner had a combined qualifying service of more than 20 years, he is entitled for pension. Accordingly, the respondent No.3 being the Executive Engineer Public Health Engineering, Umrangso Division, Umrangso, in the Dima Hasao district is directed to examine the service records of the petitioner. Upon examination, if he is found otherwise entitled to pension under the law, by accepting the qualifying service as concluded hereinabove, the pension papers in respect of the petitioner be processed and the claim of the petitioner for pension be brought to its logical end and it shall not be rejected for the conclusion arrived hereinabove.”

From the aforesaid order it is clear that the examination of the service records of the petitioner was to be carried on by the Executive Engineer, Public Health Engineering, Umrangso Division, Umrangso.

In that view of the matter, the respondent Nos.1, 2, 3, 5, 6 and 7 in the considered opinion of this court cannot be brought into contempt in the present proceeding. Accordingly, their names stands deleted from the array of parties at this stage. In view of such determination, the order dated 15.12.2023 is hereby recalled.

Mr. R.M. Das learned counsel for the respondent No.3 submits that the respondent No.3 has in the meantime retired, however, the present Executive Engineer, PHE Umrangso Division, Umrangso has passed an order in terms of this Court's order dated 28.09.2022 in WP(C) No.6462/2022.

The said office order reflects that though the service of the petitioner was regularized by the Govt. of Assam vide an order dated 07.10.2005 against the present post in PHE Department, but such regularization of services of the petitioner was cancelled by the

Executive Engineer by an office order No.23 of 2011-2012. Such order was issued in pursuance of the Government order No.FEC (11)61/2005/59-A dtd 10.02.2006.

It is further reflected in the order dated 18.01.2024 that in view of such cancellation, though pension proposal was sent to the Accountant General A&E, however, the same has been returned. Accordingly, the petitioner could not be paid the pension.

As the claim of the petitioner has been considered and examined, in the considered opinion of this court, the respondents have complied with the order of this court. Accordingly the contempt petition stands closed, however, the petitioner shall be at liberty to assail the order of the Finance Department withdrawing regularization as well as subsequent order No.23 of 2011-2012 issued by the Executive Engineer (PHE) Umrongso Division, Umrongso and order dated 18.01.2024.

With the aforesaid observation, the contempt petition stands closed.

Mr. R.M. Das, learned counsel shall furnish a copy of the order dated 18.01.2024 and office order No.23 of 2011-2012 to the learned counsel for the petitioner.

JUDGE

Comparing Assistant