

GAHC010118172024



2026:GAU-AS:3546

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

Case No. : Review.Pet./148/2025

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, PUBLIC
HEALTH ENGINEERING DEPARTMENT, DISPUR, GUWAHATI-6.

2: THE CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING
HENGRABARI
GHY- 6.

3: THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING
HOJAI DIVISION
HOJAI
ASSAM.

4: THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGINEERING
HOJAI DIVISION
HOJAI
NAGAON

VERSUS

DEBEN TALUKDAR
SON OF SRI LAKSHI PRASAD TALUKDAR, VILLAGE- GOLAGHATIA GAON,
P.O AND P.S- HOJAI, DIST- HOJAI, ASSAM.

Advocate for the Petitioner : MR ISHAAN BORTHAKUR, MR. I BORTHAKUR,MR. D
GOGOI,MR. K P PATHAK

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 10.03.2026

Heard Mr. I. Borthakur, learned counsel for the petitioner.

2. This is an application for review of order dated 11.12.2020, passed by this Court in WP(C)/7022/2015.

3. The respondent no. 1 is the writ petitioner in WP(C)/7022/2015. By virtue of the order dated 11.12.2020, under review, this Court, on examination of materials available on record found that the case of the respondent no. 1 was that he was employed as Muster Roll worker till September, 1990 and he was verbally terminated in the month of September, 1990. The respondent no. 1 further projected that he was appointed as a Work Charge Section Assistant by order dated 22.02.1995 and he was rendering service at the Hojai Division of the PHE where he was working in the said post till date. In this regard the learned counsel for respondent no. 1 had referred to the office order no. 166 dated 22.02.1995 and statement of GPF account which was annexed as Annexure-10 to the writ petition to show that he had credit of GPF for the month of December, 1997 onwards till March, 2003.

4. This Court had recorded that it was not disputed at the Bar that the case of the petitioner was forwarded by the PHE Department for regularization of service. Accordingly, this Court had held that even if the appointment w.e.f 15.10.1988 was not considered, but the respondent no. 1 had been able to show a *prima facie* case of his appointment as Muster Roll worker w.e.f 22.02.1995. Accordingly, this Court had taken cognizance of the service

rendered by the respondent no. 1 as a Muster Roll worker under Hojai Division w.e.f 22.02.1995.

5. Accordingly, in light of the ratio laid down in the case of *Sanjita Roy Vs. The State of Assam & Ors., WP(C)1089/2015*, decided by a common order dated 04.12.2018, the respondent no. 1 was found entitled to extended the benefit of pension and other pensionary benefit, however, by providing that such benefit would operate prospective w.e.f. 04.12.2018, the date when the case of *Sanjita Roy (supra)* was decided.

6. Supporting the prayer for review, the learned standing counsel for the review petitioners has submitted that the pension papers that were sent to the Office of the Accountant General for fixation of pension of the respondent no. 1 was returned back by letter dated 05.10.2021, issued by the Senior Accounts Officer and Accounts Officer, Office of the Accountant General (A&E), Assam, along with the service-book of the respondent no. 1 to the Chief Engineer of PHE Department with a request to re-examine the fixation of pay and re-submit the same after correction of pay from 01.01.2006 till the date of his retirement. It is the contention of the petitioners is that the primary objection was on the ground that the service of the petitioner had never been regularized, thus, making him ineligible to receive pension.

7. Accordingly, it is submitted that in view of above, the case of the respondent no. 1 could not be considered for regularization. Moreover, it is submitted that as the service of the respondent no. 1 was not regularized, the decision in the case of *Sanjita Roy (supra)* would not apply on the respondent no. 1.

8. In this review application, no document has been produced to show that office order no. 166 dated 22.02.1995, as well as the statement of GPF

account annexed to the writ petition as Annexure-10, showing credit of GPF for the month of December, 1997 to March, 2003 were forged for non-existent. This Court is of the considered opinion that in this review petition the review petitioners have not been able to demonstrate that the appointment of the petitioner as Muster Roll worker w.e.f 22.02.1995, as projected together with credit made to his GPF account from December, 1997 to March, 2003 were forged or non-existent. It is under those circumstances, that following the ratio of *Sanjita Roy (supra)* was applied as the respondent no. 1 was successfully able to demonstrate that he was already crossed more than 25 (Twenty five) years of service, and the said respondent no. 1 was entitled to benefit of pension and other pensionary benefits.

9. In the absence of anything to the contrary, the Court had recorded in paragraph no. 4 of the impugned order dated 11.12.2020, that it is not disputed that the case of the petitioner was forwarded by the PHE for regularization of service and thereafter, he was re-engaged with w.e.f 22.02.1995, coupled with the said office order dated 22.02.1995 and GPF account referred above. The Court does not find any error apparent in the directions contained in the order dated 11.12.2020 to refuse respondent no. 1, the benefit of from the ratio laid down by this Court in *Sanjita Roy (supra)*.

10. It is not the case of the review petitioners that non-regularization of the services of the petitioner was inadvertently overlooked by the concerned officials during the proceedings of WP(C)/7022/2015. Moreover, even if such a plea was taken, it would not fall within the scope of any material which was either unknown to the review petitioners despite exercise of due diligence on their part. It is not the case of the review petitioners that the affidavit-in-opposition filed in the writ petition was based on any incorrect materials placed

before the deponent who had sworn the affidavit. Therefore, the present petitioners had taken a risk of filing an affidavit-in-opposition in the writ proceedings without being acquainted with the correct state of facts. Therefore, no ground of review has been made out.

11. The learned counsel for the petitioners has cited the case of *State of Assam & Anr., Vs. Kamrup District Siksha Sarathi (I) Association & Ors., Review Petition/149/2019*, decided by the Full Bench of this Court on 13.06.2024. In the said case the finding of the Court was erroneous that those concerned persons had worked over 10 (ten) years and therefore, it was a factual error which has crept in the order under review as it is for those consideration that it was held that case of *State of Assam Vs. Upen Das, W.A/45/2015*, would not entitle those writ petitioners who have not completed any benefit who have not completed 10 (ten) years of service.

12. Therefore, if at all appreciation of the facts of this Court was incorrect, it would make the decision erroneous and not subject to review as it would require entire re-hearing of the matter a fresh.

13. Resultantly, this review petition stands dismissed without issuance of notice on the respondent no. 1/ *proforma* respondents.

14. There shall be no order as to cost.

JUDGE

Comparing Assistant