

GAHC010000812023



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

Case No. : WP(C)/434/2023

DINESH CH. BRAHMA
S/O LT. HALIRAM BRAHMA,
VILL.- TIPUKIAL,
P.O.- CHARAIMORIA,
P.S.- BOGINADI,
DIST.- LAKHIMPUR, ASSAM, PIN- 787032.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTRAY) DEPTT., DISPUR, GUWAHATI- 6.

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCE DEPTT.
DIPUR, GUWAHATI- 781006.

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
ASSAM, DISPUR, GUWAHATI- 6.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM, KAHILIPARA, GUWAHATI- 19.

5:THE DIRECTOR OF PENSION
LAST GATE, DISPUR- 6,
ASSAM.

6:THE DEPUTY INSPECTOR OF SCHOOLS
LAKHIMPUR
NORTH LAKHIMPUR, PIN- 787001.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
NORTH LAHIMPUR,PIN- 787001.

8:THE TREASURY OFFICER
LAKHIMPUR
DIST.- LAKHIMPUR, PIN- 787001

Advocate for the Petitioner : MR. B GOGOI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 19.05.2023

Heard Mr. K.R. Patgiri, the learned counsel appearing on behalf of the petitioner. Mr. N.J. Khataniar, the learned counsel appears on behalf of the respondent Nos. 1, 4, 6 & 7, Mr. R. Borpujari, the learned counsel appears on behalf of the respondent Nos.3 and 8 and Mr. S.R. Baruah, the learned counsel appears for the respondent Nos. 2 and 5.

2. Issue notice making it returnable on 28/6/2023.
3. As the respondents are duly represented by their respective counsels, extra copies of the writ petition be served upon them by 27th of May, 2023.
4. The case of the petitioner herein is that the petitioner is aggrieved by the recovery of an amount of Rs. 2,39,589/- on account of overstay.
5. From a perusal of the documents, more particularly, the Service Book enclosed as Annexure-1, it clearly reveals that the date of birth of the

petitioner was duly recorded in the Service Book as 1/6/1961. The fact that the petitioner did not know his date of birth cannot be accepted in view of the fact that the petitioner was a teacher and his date of birth was duly recorded on the basis of his Admit Card in the matriculation examination. As per the Service Book, the petitioner was supposed to retire on 30/6/2021. However, the petitioner overstayed till 31/10/2021. It is the specific case of the petitioner that the petitioner continued to render his service, as the Block Elementary Education Officer, who was the head of the establishment, did not issue notice of superannuation to the petitioner as is required under Rule 95 of the Assam Service(Pension) Rules, 1969.

6. On the returnable date, the learned counsel appearing on behalf of the respondent-Elementary Education Department shall apprise this Court as to why there was no notice issued to the petitioner and further to that, as to whether the petitioner is entitled to the refund of the amount as claimed. Instructions shall also be obtained by the learned counsel appearing on behalf of the respondents as to who was the concerned official, who was required to issue the notice of superannuation to the petitioner so that he can be added as a party to the instant proceedings.

JUDGE

Comparing Assistant