

GAHC010005272018



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

Case No. : WP(C)/438/2018

KANAKLATA DAS
W/O SRI RAJU DAS
R/O TETELIA, NURSERY, P.O. GOTANAGAR, P.S. JALUKBARI, GUWAHATI-
33, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT OF ASSAM

FINANCE (BUDGET) DEPARTMENT

DISPUR
GUWAHATI-6

3:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA
GUWAHATI-19
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KAMRUP
CHATRIBARI
GUWAHAT

Advocate for the Petitioner : MR. D K SARMAH

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

15.12.2020

The petitioner is aggrieved by the portion of the order of regularization by which it was provided that upon being regularized the petitioner would be governed by the New Pension Scheme. According to the petitioner as the petitioner was initially appointed in the year 1993, therefore, he would be governed by the Assam Service (Pension) Rules, 1962.

2. We have gone through the order of regularization dated 11.08.2005 which clearly provides that the service of the petitioner is regularized with effect from the date of his joining against the vacant post shown against his name. It is also provided in the order of regularization that the petitioner was an excess teacher and he was regularized pursuant to a cabinet decision.

3 As the order of regularization had not provided the petitioner the benefits of regularization from the date of his initial appointment in the year 1993 and the benefit is given only with effect from the petitioner joining the post against which he was regularly appointed and further the reasons for the petitioner requiring to be regularly appointed is that earlier he was an excess teacher which was against the rule but regularized because of a cabinet decision, the petitioner to make his submission as to why his date of entry in service on a regular method should not be construed to be 11.08.2005. If it is so, whether under the rules the petitioner would be governed by the New Pension Scheme.

4. List after two weeks to enable the learned counsel for the petitioner to make submission on the aforesaid aspect.

JUDGE

Comparing Assistant