

GAHC010042132025



2026:GAU-AS:15

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

Case No. : Review.Pet./149/2025

THE STATE COUNCIL OF EDUCATION RESEARCH AND TRAINING,
ASSAM KAHILIPARA, GUWAHATI 19 REPRESENTED BY ITS DIRECTOR
SMTI DR. NIRADA DEVI.

VERSUS

SARDARY BASPHORE
S/O RAM LAL BASPHORE, POST GRADUATE TRAINING COLLEGE, IASE,
JORHAT, ASSAM.

Advocate for the Petitioner : MR. D SAIKIA, MR S BORA,AG, ASSAM

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 05.01.2026

Heard Mr. S. Bora, learned counsel for the petitioner, who submits that by filing this writ petition, the petitioner seeks review of the order dated 06.09.2019 passed in WP(C)/7018/2016 by which the respondent authorities/ petitioner in the instant review petition have been directed to grant regular pay

attached to the post of Sweeper Grade-IV to the writ petitioner/respondent in the review petition.

[2.] Mr. S. Bora, learned counsel submits that the State Counsel of Education Research and Training (SCERT) has preferred the instant review petition due to the fact that the petitioner was considered to be a compassionate appointee as per the Order dated 06.09.2019 while he is not.

[3.] Referring to the grounds for review, Mr. S. Bora, learned counsel submits that the petitioner was appointed during the lifetime of his father on 16.08.1986 in lieu of his father who was working in the said post on a consolidated pay/fixed pay. He submits that one post of Sweeper was sanctioned by the Government vide Communication dated 15.07.1986, wherein, it was clearly mentioned that the post was sanctioned on a consolidated pay of Rs.450 per month which in fact was given to the writ petitioner. However, an argument was advanced on behalf of the writ petitioner that he being a compassionate appointee, he should be given a scale of pay and not a fixed pay.

[4.] I have perused the order dated 06.09.2019 which is sought to be reviewed by the petitioner and it is seen that it was only the submission of the counsel for the petitioner that appointment of the writ petitioner was on compassionate basis and for which reason, he should be given a scale of pay and not a fixed pay. In other words this Court had not rendered a finding on this aspect. This Court had merely recorded the submission made by the learned counsel for the writ petitioner. The actual basis for directing the writ petitioner to be given a scale of pay was after the Court had taken into consideration the specific statements made in paragraph No.7 of the affidavit-in-opposition filed by the Director of SCERT and thereafter coming to the conclusion that the post held by the writ petitioner was permanently retained w.e.f. 01.03.1999 as was reflected

in paragraph No.7 of the affidavit-in-opposition of the SCERT.

[5.] The Court therefore opined that when the post is permanently retained and sanctioned for all ordinary purpose, it is to be construed that a scale of pay is attached to the said post. A Situation where a post is permanently sanctioned and retained on a fixed scale of pay could not be comprehended unless adequate materials are produced to support the same.

[6.] Pursuant to making such an observation, an opportunity was also given to the Finance Department to clarify the position but since no such clarification was forthwith coming, Court directed that the petitioner has to be given a regular pay scale since the post itself has been retained since 01.03.1999. It is also seen that there is no material available on record to support the submission that was made on behalf of the writ petitioner that he is a compassionate appointee. Therefore, this Court is of the view that the claim that the writ petitioner was a compassionate appointee is only a submission made by the learned counsel for the writ petitioner without any basis and therefore, the same cannot have any bearing on the case. I therefore find no reason to review the order passed by this Court on 06.09.2019.

[7.] Accordingly, the review petition stands dismissed.

JUDGE

Comparing Assistant