

GAHC010058122024



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

**Case No. : WP(C)/1678/2024**

BALEN BARO  
S/O- LATE BANO BARO, R/O- VILL.- KUCHIZAR, P.O. BHAWANIPUR, P.S.  
AND DIST. BARPETA, ASSAM, PIN- 784352.

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, PWD (R) DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE ACCOUNTANT GENERAL (A AND E)  
ASSAM  
MAIDAMGAON  
BELTOLA  
GUWAHATI-781036.

3:THE CHIEF ENGINEER

PWD (RR) DEPARTMENT  
CHANDMARI  
GUWAHATI-3.

4:THE TREASURY OFFICER  
BARPETA  
DIST. BARPETA  
ASSAM

5:EXECUTIVE ENGINEER  
PWD (RR)

BARPETA DIVISION  
DIST. BARPETA

ASSAM

6:ASSTT. EXECUTIVE ENGINEER

PWD  
PATACHARKUCHI TERRITORIAL ROAD  
SUB- DIVISION PATHSALA  
BARPETA

**Advocate for the Petitioner** : MR H DAS, MR. B C DEKA,D BARUAH

**Advocate for the Respondent** : SC, PWD ROAD, SC, FINANCE,SC, AG

**BEFORE  
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**28.10.2025**

Heard Mr. H Das, learned counsel for the petitioner. Also heard Mr. P Nayak, learned Additional Advocate General, Assam and Mr. C. Baruah, learned Standing Counsel, Accountant General (A&E).

2] The petitioner before this Court was employed as Muster Roll Labour under the PWD (Rural Road) Division who had initially joined his services on 18.07.1985 on casual basis and thereafter, his service was regularized on 07.10.2025. The petitioner continued in his service until he was served with a notice on 30.09.2020 issued by the Executive Engineer, PWD Patacharkuchi, Pathsala directing him to appear before the Enquiry Committee for his overstay. The petitioner participated in the enquiry and the enquiry report concluded that the records in respect of the writ petitioner including the entries, particularly, his

date of birth in the service book were manipulated by the dealing Assistance Shri Mahananda Sarma in cognizance with the present writ petitioner. The enquiry concluded and the petitioner in terms of the records available in the Department was to retire from service on 31.12.2016. But continued to overstay due to manipulation of the records and incurring financial loss to the Government exchequer to the tune of Rs.12,46,113/-. The enquiry also concluded initiation of Disciplinary action against the said Shri Mahananda Sarma and the writ petitioner and for recovery of the said amount. Learned counsel for the petitioner has submitted that there was a wrong recording of his date of birth in his service book showing it to be 31.12.1956 when his actual date of birth as per his school certificate is 28.07.1966. This date according to the writ petitioner is also reflected in the PAN card, Adhaar Card as well as ID Card issued by the Department. The petitioner submits that since the petitioner is a Grade-IV Muster Roll Worker he continues to service and was under the bonafide belief that he will superannuate from service on July, 2026. The writ petitioner, therefore, continued to render his service and accordingly, withdraw his salary till the month of July, 2020. However, with effect from the month of August, 2020 his salary has been stopped and being aggrieved, the present writ petition has been filed.

3] The writ petitioner's specific prayer in the writ petition are for setting

aside the communication dated 30.09.2020 issued by the Department requiring him to appear before the Enquiry Committee, and for directions to release his arrear salary with effect from August 2020 till the date of his reinstatement in service as a Muster Roll Worker. The petitioner has also prayed for correction of his date of birth in the service book by recording 28.07.1966 as his date of birth instead of 28.12.1956. Learned counsel for the petitioner submits that there was no complaint against the services rendered by the petitioner during his service tenure and he continued to render his service until he was informed in the enquiry proceedings that his date of birth was recorded as 28.12.1956 and thereby, he was ought to have retired from service in December, 2016. It is submitted by the learned counsel for the petitioner that there is no fault on the part of the writ petitioner and he may be allowed to render his service on the basis of the bonafide belief that his date of birth is 28.07.1966 and it was the responsibility of the Department to intimate the writ petitioner prior to his retirement that his date of birth was recorded as 28.12.1956 in the service book. Learned counsel for the petitioner, therefore, submits that the prayers made in the writ petition be allowed and the petitioner be directed to release his arrear pay as well as reinstate in service.

4] The case projected by the writ petitioner is contested by the respondent by filing an affidavit.

5] Mr. P Nayak, learned Additional Advocate General, Assam, appearing for the State has strongly opposed to the case projected by the petitioner. It is submitted that the writ petitioner was deliberately overstaying in his service knowing fully well that his date of birth was recorded 28.12.1956 in the service book. The salary slips and the statement of the GPF account also clearly reflect that the petitioner's date of birth is 28.12.1956 and therefore, it is only after his superannuation that the petitioner has projected a case claiming that his correct date of birth is 28.07.1966.

6] During the course of the argument, learned Additional Advocate General, Assam referring to the additional documents placed before the Court in the pleadings refers to a school certificate dated 27.05.2005 issued in favour of the writ petitioner by the Principal of Paka Higher Secondary School, Fingua and in the said certificate, the petitioner's date of birth was recorded by the school in its admission register as 31.12.1956. Lenard Additional Advocate General, Assam, therefore, submits that it is on the basis of the said certificate, the entry of date of birth in the service book was entered.

7] At this stage this Court has noticed that the School Certificate enclosed to the writ petition at page-21 was issued by the Headmaster/Headmistress of Kayakuchi Milan High School on 27.05.2005 in favour of the writ petitioner and the certificate available with the Department, which has been placed before the

Court through the affidavit filed by the Department, is also shown to have been issued on the same date, i.e., 27.05.2005, but from a different school.

8] Under such circumstances, this Court considers it appropriate to call for the original records containing service records of the writ petitioner. Let these records along with the Service Book and other relevant documents be placed before the Court. The Department shall ensure that the school certificate, on which it has placed reliance, is also made a part of the record that has been called for.

9] List the matter again on 21.11.2025.

**JUDGE**

**Comparing Assistant**