

GAHC010151352022



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

Case No. : WP(C)/4971/2022

BHUPENDRA NATH
S/O LT. MOTILAL NATH, R/O BAPUJINAGAR, P.O. AND P.S GOALPARA,
DIST. GOALPARA, PIN-783129 ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY COMMISSIONER AND SECRETARY, SECONDARY EDUCATION
DEPTT. GOVT. OF ASSAM, JANATA BHAVAN DISPUR GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY
SECONDARY EDUCATION DEPTT. GOVT. OF ASSAM
JANATA BHAVAN DISPUR GUWAHATI-781006

3:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA GUWAHATI-781029

4:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

5:THE DIRECTOR OF PENSION ASSAM
BANPHOOL NAGAR
DISPUR GUWAHATI-781006

6:INSPECTOR OF SCHOOLS
GOALPARA DISTRICT CIRLCE
GOALPARA
ASSAM
PIN-783121

7:TREASURY OFFICER
GOALPARA TREASURY
GOALPARA
ASSAM
PIN-783121

8:HEADMASTER
BALADMARI HIGH SCHOOL
GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR H K NATH

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 20.03.2023

Heard Mr. D. Das, learned senior counsel assisted by Mr. H. K. Nath, learned counsel for the petitioner. Also heard Mr. N. J. Khataniar, learned counsel for the respondent Nos. 1, 2, 4 & 6; Mr. S. R. Baruah, learned counsel for the respondent No. 5; Mr. A. Hasan, learned counsel for the respondent No. 3 and Mr. B. Gogoi, learned counsel for the respondent No. 7.

Mr. Khataniar, learned counsel appearing on behalf of the respondent Nos. 1, 2, 4 & 6 submits that as per his instructions so received that the petitioner was put under suspension by the disciplinary authority on 10.12.2004. After suspension, the petitioner was neither re-instated nor there has been any departmental proceedings drawn against him. The petitioner, however, retired from service on superannuation on 28.02.2022.

An issue has cropped up while hearing the matter as to whether the

petitioner in terms of Rule 22(1) read with Rules 21 and 108 of the Assam Services (Pension) Rules, 1969 would be entitled to the provisional pension. Taking into account that the revision petition challenging the petitioner's conviction is still pending before this Court.

List this matter after the Bihu vacation.

The instructions so received by Mr. Khataniar, learned counsel is kept on record and marked with letter 'X'.

JUDGE

Comparing Assistant