

GAHC010169412023



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

Case No. : WP(C)/4429/2023

PRABENDRA CH DAS

S/O- LATE RAJENDRA DAS, RETIRED HEAD TEACHER, NIKAMA BAZAR
GOVT. JR. BASIC SCHOOL, GANGANAGAR PART-I, PO GANGANAGAR
BAZAR, R/O- SARAT PALLY, LANE NO. 1 (A), HOUSE NO.67, PO LINK ROAD,
SILCHAR, DIST.- CACHAR, ASSAM, PIN- 788006

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, TO THE GOVT.
OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI,
ASSAM, PIN- 781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
ASSAM
PIN- 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CACHAR
SILCHAR
ASSAM
PIN- 788003

4:THE DEPUTY INSPECTOR OF SCHOOLS
SILCHAR
CACHAR
ASSAM

5:THE ACCOUNTANT GENERAL

ASSAM
(A AND E)
ASSAM MAIDAMGAON
BELTOLA
GUWAHATI
ASSAM
PIN- 781029

6:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
ASSAM CIVIL SECRETARIAT
DISPUR
GUWAHATI
ASSAM
PIN- 78100

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

04.08.2023

Heard Mr. B Purkayastha, learned counsel for the petitioner and Mr. P N Sharma, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 4. Also heard Mr. K K Medhi, learned counsel for the respondent No. 5 as well as Mr. P Nayak, learned Standing counsel, Finance Department, Assam for the respondent No. 6.

2. The petitioner was an Assistant Teacher of Nikama Bazar Government Junior Basic School, Ganganagar Part-I under Sonai Education Block of District-Cachar, who retired from service on 31.07.2017.

3. During his service tenure, the petitioner was placed under suspension in terms of the order of the District Elementary Education Officer (DEEO), Cachar, Silchar dated 19.12.2015 issued under No. DEO/Personal/183/15 as per the provisions of the Assam Services (Discipline and Appeal) Rules, 1964 with immediate effect pending drawal of departmental proceeding and by Order No. DEO/127/Suspension/2016/4296-4302 dated 15.09.2016, the

DEEO, Cachar, Silchar reinstated the petitioner in service in his original place of posting as Head Teacher in said Nikama Bazar Government Junior Basic School.

4. As he was not granted the three financial benefits under the Assured Career Progression Scheme (ACPS) of the State, he approached this Court by filing a writ petition being WP(C) No. 1826/2021.

5. The petitioner contended that the DEEO, Cachar, Silchar by an order dated 01.10.2020, after his retirement, regularized his period of suspension for the period from 19.12.2015 to 15.09.2016, stating further that during his service tenure no departmental proceeding was initiated against him.

6. Such regularization of the suspension period of the petitioner from 19.12.2015 to 15.09.2016 by the DEEO, Cachar, Silchar on 01.10.2020 was without the approval of the Finance Department of the State and the petitioner had already retired from service on 31.07.2017.

7. The Court by order dated 12.09.2022 while disposing of said WP(C) No. 1826/2021 of the petitioner directed as follows-

“in view of the facts as narrated hereinabove, the authorities of the Elementary Education Department are directed to take steps forthwith for considering the case of the petitioner for providing the 3(three) financial up-gradations as provided in the Notification dated 17.03.2017. After consideration, if the petitioner is found eligible he shall be paid the 3(three) financial up-gradations within a period of 3(three) months from today. The pension benefits of the petitioner shall also be finalized in terms of the last pay drawn by the petitioner after calculating the financial up-gradation.”

8. Though the Deputy Inspector of Schools, Cachar, Silchar forwarded the pension proposal of the petitioner in February, 2023 with the benefits of the 3 (three) financial up-gradations, but the same was returned by the Office of the Accountant General (A&E), Assam vide communication No. Pen-2/3/DIS/ 102937/2022/S-577 dated 19.05.2023 finding certain lacunas in the pension proposal of the petitioner submitted by the Deputy Inspector of Schools, Cachar, Silchar.

9. Being aggrieved, the petitioner has preferred this writ petition.

10. On the next date fixed, the District Elementary Education Officer, Cachar, Silchar, respondent No. 3 and the Deputy Inspector of Schools, Cachar, Silchar, respondent No. 4 shall apprise the Court about the status of the pension proposal of the petitioner in terms of the communication of the Accountant General (A&E), Assam issued on 19.05.2023 (Annexure-11 to this petition), noted above.

11. Petitioner shall serve three requisite extra copies of this writ petition including the Annexures appended thereto, to Mr. P N Sharma, learned Standing counsel, Department of School Education, Assam by 07.08.2023, obtaining necessary acknowledgment from him in that regard.

12. List on **08.09.2023**.

13. Pendency of this writ petition shall not be a bar for the respondent authorities to proceed with the submission of the correct pension proposal of the petitioner in terms of the communication dated 19.05.2023 of the Office of the Accountant General (A&E), Assam, respondent No. 5.

JUDGE

Comparing Assistant