

GAHC010180142021



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

Case No. : WP(C)/5750/2021

DR. GOPAL PHUKAN
S/O LATE DAYARAM PHUKAN, R/O TETELIA HILLSIDE, LACHIT
BORPHUKON PATH, NEAR HANUMAN MANDIR, P.S.-JALUKBARI, P.O.-
MALIGAON RAILWAY HEADQUARTERS, GUWAHATI, DIST- KAMRUP(M),
ASSAM, PIN-781033

VERSUS

THE STATE OF ASSAM AND 10 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HIGHER EDUCATION DEPARTMENT, JANATA
BHAWAN, DISPUR, GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HIGHER EDUCATION DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-781006

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

5:DUDHNOI COLLEGE
REPRESENTED BY ITS PRINCIPAL
DUDHNOI
DIST- GOALPARA
ASSAM-783124

6:THE GOVERNING BODY
DUDHNOI COLLEGE
REPRESENTED BY ITS SECRETARY
DUDHNOI
DIST- GOALPARA
ASSAM-783124

7:THE PRESIDENT
GOVERNING BODY
DUDHNOI COLLEGE
DUDHNOI
DIST-GOALPARA
ASSAM
PIN-783124

8:THE PRINCIPAL AND SECRETARY
DUDHNOI COLLEGE
DUDHNOI
DIST-GOALPARA
ASSAM-783124

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

10:THE TREASURY OFFICER. GOALPARA
DIST-GOALPARA
ASSAM
PIN-783101

11:THE DIRECTOR OF AUDIT (LOCAL FUND)
ASSAM
KAR BHAWAN COMPLEX
DISPUR
GUWAHATI-78100

Advocate for the Petitioner : MR. P D NAIR

Advocate for the Respondent : SC, HIGHER EDU

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

ORDER

12.11.2021

Heard Mr. PD Nair, learned counsel for the petitioner. Also heard Mr. AR Tahbildar, learned counsel for the respondents No.1, 2 and 4 being the authorities under the Higher Education Department, Government of Assam, Mr. A Chaliha, learned counsel for the respondents No.3 and 10 being the authorities under the Finance Department, Government of Assam, Mr. RK Talukdar, learned counsel for the respondent No.9 being the Accountant General (A&E), Assam and Ms. DD Barman, learned Additional Senior Government Advocate for the respondent No.11, being the Director of Audit (Local Fund), Assam.

Issue notice, returnable by six weeks.

Extra copies of the writ petition be served on the learned counsel for the respondents as indicated above within three days.

Petitioner to take steps for service of notice on the respondents No.5, 6 and 7 by registered post with A/D within three days.

The petitioner who was appointed as a Lecturer in the Pandu College, Guwahati w.e.f. 01.01.1986 and confirmed on 01.02.1989 and later on appointed as the Principal of Dudhnoi College retired from service upon attaining the age of superannuation on 31.05.2018. The grievance raised by the petitioner is that the pensionary benefit has not been paid to the petitioner. It is stated that there is an issue as regards certain audit discrepancy during the

service tenure of the petitioner and that is the reason that his pension is not being paid.

On the issue of payment of final pension, it is for the authorities to follow the necessary procedure of law, but Rule 22 of the *Assam Services (Pension) Rules 1969*, makes it mandatory for the authorities to atleast pay provisional pension to a retired employee, even if there is a pendency or contemplation of departmental or criminal proceeding against him.

In view of such mandatory provision, in the interim, we direct the respondents in the Higher Education Department to do the needful to pay the provisional pension to the petitioner at a rate to be determined by the authorities from December, 2021 onwards.

List after six weeks.

JUDGE

Comparing Assistant