

GAHC010201172021



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

Case No. : WP(C)/6550/2021

TAPAN CHANDRA KALITA
S/O LATE RAJAT CH. KALITA, R/O H.NO. 16, RANGPATHAR BYE LANE, P.O.
AND P.S.-AMBARI FATASHIL, DIST- KAMRUP(M), ASSAM, PIN-781025

VERSUS

THE STATE OF ASSAM AND 6 ORS
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, PUBLIC
WORKS DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISISONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6

3:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29

4:THE CHIEF ENGINEER
PWD (ROADS)
ASSAM
CHANDMARI
GUWAHATI-3

5:THE DIRECTOR
ASSAM ROAD RESERCH AND TRAINING INSTITUTE
PWRD
FATASHIL AMBARI
GUWAHATI-25

6:RESEARCH OFFICER
ASSAM ROAD RESEARCH AND TRAINING INSTITUTE
PWRD
FATASHIL AMBARI
GUWAHATI-25

7:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM.
PERSONNEL (B) DEPARTMENT
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. B SAIKIA, MR A N IQBAL,A R AHMED,MR S MUKTAR

Advocate for the Respondent : SC, PWD, MR. C S HAZARIKA (SC, PERSONAL (B)),SC, PWD
ROAD,SC, AG,SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : --27.11.2024

Heard Mr. K. H. Choudhury, learned Senior Counsel assisted by Mr. S. Gupta, learned counsel appearing for the petitioner. Also heard Mr. R. Dhar and Mr. P. Nayak, learned counsel appearing for the respective respondents.

The case of the petitioner is that on account of an issue arising with regard to the manner in which his pay was fixed on his appointment as a Scientific Assistant on regular basis, by reckoning the pay drawn by him as Work Charge Field Assistant/Surveyor, the pension and the pensionary benefits of the petitioner has not been finalized and he is being extended only with a provisional pension.

Mr. Nayak, learned Standing Counsel Finance Department, as well as Mr. R. Dhar, learned Standing Counsel, PWD, shall receive instructions as to why the period of service rendered by the petitioner on Work Charge basis, shall not be treated as qualifying service which would be added to the regular service of the petitioner as a Scientific Assistant, for the purpose of determining his total qualifying service for pension and pensionary benefits. The said instructions be placed before this Court on the next date of listing.

The Senior Accountant Officer, Principal Accountant General (A&E), Assam, in a communication dated 24.07.2019 had raised an objection to the effect that the petitioner was granted pay protection on his regular appointment as Scientific Assistant, without however regularizing his previous period of service as a Work Charge employee. The learned Standing

Counsel, AG (A&E), Assam, Standing Counsel, Finance Department and the Learned Standing Counsel, PWD, shall also receive instructions and apprise this Court on the next date of listing as to how the Work Charge period of service of an employee is required to be regularized.

In the facts and circumstances of the case, liberty is provided to the respondents to invoke the provisions of the Assam Services Pension Rules, 1969, more particularly Rule 31, thereof to reckon the work charge period of service rendered by the petitioner as qualifying service for pension.

Registry is directed to list this matter again on 17.12.2024.

JUDGE

Comparing Assistant