

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 MANISH CHOUDHURY

ORDER

Date : – 17.12.2024

Heard Mr. K.H. Choudhury, learned Senior Counsel assisted by Mr. S. Muktar, learned counsel for the petitioner; Mr. R. Dhar, learned Standing Counsel, PWD for the respondent no. 1, 4, 5 and 6; Mr. P. Nayak, learned Standing Counsel, Finance Department for the respondent no. 2; Mr. C. Baruah, learned Standing Counsel, Accountant General, Assam for the respondent no. 3; and Mr. D. Borah, learned Junior Government Advocate, Assam for the respondent no. 7.

Mr. Dhar, learned Standing Counsel, PWD have submitted, on the basis of a Communication bearing no. Efc. no. 130980/238 dated 11.12.2024 of the PWD Department, that as per Office Memoranda - dated 16.06.2012 and dated 27.06.2013 - the period of service rendered by an employee on Work-Charge basis is not to be treated as qualifying service for his pension and pensionary benefits. The Work-Charge period of service of an employee is required to be regularized with the approval and concurrence of the Finance Department and when the case of the petitioner was moved, the Finance Department rejected the proposal. When a proposal was sent to the ARTTPG Department to invoke Rule 31 of the Assam Services [Pension] Rules, 1969 to reckon the Work-Charge period of service

rendered by the petitioner as qualifying service for pension, the said department suggested to place the case before the Cabinet in terms of the Office Memorandum dated 27.06.2013, but the same could not be placed before the Cabinet due to non-fulfillment of the condition incorporated in the said Office Memorandum, that is, condition no. 2. Mr. Dhar has, thus, submitted that he will bring the aforesaid facts by way of an additional affidavit within 10 [ten] days time.

In view of the above submission of Mr. Dhar, let the case be listed on 29.01.2025 for filing of the additional affidavit.

JUDGE

Comparing Assistant