

GAHC010290062023



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

Case No. : WP(C)/7490/2023

ANJAN KUMAR BHATTACHARJEE
S/O LT. RAJ BIHARI BHATTACHARJEE R/O HOJAI DIST. NAGAON ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE COMMISSIONER AND SECRETARY HIGHER EDUCATION
DISPUR GUWAHATI PIN 781006

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA GUWAHATI 78101

Advocate for the Petitioner : MR. B CHAKRABORTY

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE

O R D E R

01.03.2024.

Heard Mr. B. Chakraborty, learned counsel for the petitioner.

- 2) By filing this application, the petitioner has put to challenge the speaking order dated 07.10.2023, by which the dismissal from service of the Petitioner dated 10.07.2008 is held to be in accordance with the provisions of Law and thereby not entitled to any pensionary benefits.
- 3) Mr. Chakraborty, learned counsel for the petitioner fervently argued that the impugned speaking order is in the teeth of a judgment and order of the Hon'ble Division Bench of this Court as well as the Supreme Court of India, in as much as the authority, namely, the Director of Higher Education Department, Assam, despite the clear findings of the Hon'ble Division Bench that the Governing Body does not have the authority to conduct any inquiry against the petitioner, the Director has held that the Governing Body has the authority.
- 4) The learned counsel for the petitioner submits that the impugned dismissal order was passed on 10.07.2008 and the date of retirement of the petitioner was on 31.12.2009 and he is presently 74 years old.
- 5) Issue notice returnable in two (2) weeks.
- 6) Mr. D. Upamanyu, learned Standing Counsel, Higher Education Department has placed the instruction dated 28.02.2024.
- 7) On perusal of the same, this Court finds nothing but a reiteration of the impugned speaking order dated 07.10.2023, to which this Court expresses its displeasure.
- 8) Be that as it may, since Mr. D. Upamanyu, learned Standing Counsel, Higher Education Department appears for both the respondents, no formal notice need to be served. However, requisite extra copies be furnished to the learned Standing Counsel.
- 9) The learned standing counsel is directed to bring on record, by way of

affidavit, the instruction received by him as well as any other stands, the respondents may have, on or before the next returnable date.

10) Having considered that the matter has its own chequered history of litigation, coupled with the fact that the petitioner is 74 years old, on the next returnable date, endeavour shall be made to dispose of the matter.

11) List the matter after two weeks.

JUDGE

Comparing Assistant