

GAHC040002812025



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

Case No. : WP(C)/80/2025

Smti Nikh Yaram
Wife of Shri Tech Tab, resident of C Sector, Naharlagun, PO and PS Naharlagun,
Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP and 2 Ors
represented by the Secretary, Health Department, Govt of Arunachal Pradesh,
Itanagar. 2:The Director
Age: 0
Occupation :
Health Department
Govt of Arunachal Pradesh.

3:The Chief Medical Superintendent
Age: 0
Occupation :
Tomo Riba Institute of Health and Medical Science
Naharlagun
Papum Pare District
Arunachal Pradesh

Advocate for the Petitioner : Pritam Taffo, Sr. Adv, Tana Rini, Preety Moyong, Minter Karbak, Eho Menjo, V Mandal

Advocate for the Respondent : Taba Tagum, SC(Health)

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : **03.07.2026**

Heard Mr. P. Taffo, learned Senior Counsel assisted by Ms M. Karbak, learned counsel for the petitioner. Also heard Mr. T. Tagum, learned Standing Counsel, Health Department for all the respondents.

2. The challenge made in this petition is to the order dated 31.10.2024, passed by the Chief Medical Superintendent TRIHMS, Naharlagun, whereby, the petitioner has been released from her service w.e.f. 31.10.2024(A/N) on retirement on attaining the age of superannuation under FR-56.

3. The case in brief is that the petitioner was appointed as ANM on 07.03.1988 and thereafter, subsequently promoted to the post of Nursing Officer. The date of birth of the petitioner in the service book has been recorded wrongly as 23.10.1964, ignoring that as per Class-X pass certificate, her date of birth is clearly recorded as 23.10.1972, which in fact is also recorded in the service book with the aforesaid date of birth as 23.10.1964 purportedly as per the Christian Era.

4. Mr. P. Taffo, learned Senior Counsel for the petitioner submits that as 2(two) dates of birth have been recorded in the service book being 23.10.1964 as per the Christian Era as nearly as can be ascertained and 23.10.1972 as per the school record, the authorities ought to have considered the date of birth recorded as per the school record and not on the basis of supposedly accepted Christian Era. More so, competent to decide such issue as regard the exact date of birth of the petitioner would be the Government i.e. either the Commissioner or Secretary of the Department, whereas without having jurisdiction, the Chief Medical

Superintendent, TRIHMS hospital has released the petitioner solely on the basis of the date of birth as on 23.10.1964 ignoring the actual date of birth as 23.10.1972 as per Class-X pass certificate. Therefore, he submits that competent authorities may be directed to decide the issue as to what would be the actual date of birth to be considered within a time frame as the petitioner has already been released in the year 2024.

5. Mr. T. Tagum, learned Standing Counsel, Health Department for all the respondents has fairly submitted that the competent authority to decide as regards the actual date of birth as recorded in the service book, in view of the fact that 2(two) dates of birth are being recorded, would be either the Commissioner or Secretary of the Department. Therefore, he would not have any objection if direction is issued to the Commissioner or Secretary of the Department to decide as regard the actual date of birth recorded in the service book.

6. Having considered the submissions of learned counsel for the parties and also considering the dispute as regard the date of birth of the petitioner wherein 2(two) dates of birth admittedly have been recorded as 23.10.1964 based on the Christian Era and 23.10.1972 as per the school record (Class-X pass certificate), I am of the considered view that keeping the matter pending would not serve the interest of justice rather same requires to be disposed of with a direction to the competent authority to decide which one would be the actual date of birth of the petitioner in accordance with relevant Rules/Act, as in the service book there are 2(two) dates of birth recorded in respect of the petitioner. Thus, it would be appropriate to direct the respondent authority, particularly the Commissioner/Secretary of the Department i.e. Health and Family Welfare

Department to decide the matter as regard the actual date of birth of the petitioner as recorded in the service book strictly in accordance with the Rules or Act within a period of 2(two) months from today. It is hereby directed, accordingly.

7. The decision that would be rendered by the Commissioner/ Secretary of the department shall be communicated to the petitioner thereafter.

8. Having considered that the decision with regard to the actual date of birth of the petitioner would consequently regulate as to whether the petitioner has served her tenure beyond the retirement date, the alleged excess salary sought to be recovered from the petitioner for the month of November 2024 as issued on 19.12.2024 by the Chief Medical Superintendent TRIHMS hospital, Naharlagun shall not be given effect to.

9. The writ petition stands disposed, in terms above.

JUDGE

Comparing Assistant