

GAHC010016272024



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

Case No. : WP(C)/487/2024

SARET KRO
S/O LATE VIVE KRO, R/O VILL- HEMA TERON, P.S.-BARPATHR, P.O.-
SILONJAN, DIST- KARBI ANGLONG, ASSAM, PIN-785602

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC WORKS (ROADS) DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-6

3:THE CHIEF ENGINEER
PUBLIC WORKS (ROADS) DEPARTMENT
ASSAM
CHANDMARI
GUWAHATI-3

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

5:THE EXECUTIVE ENGINEER
BARPATHAR (ROAD) DIVISION
SILONIJAN
DIST-KARBI ANGLONG

ASSAM
PIN-785602

6:THR TREASURY OFFICER
DIPHU TREASURY
DIPHU
DIST- KARBI ANGLONG
ASSAM
PIN-78246

Advocate for the Petitioner : MR. K R PATGIRI, MS CHITRALEKHA DAS,MR G SARMA

Advocate for the Respondent : MR. R. DHAR SC, PWD, MR. R. RONGHANG SC, K A A C,GA,
ASSAM,SC, AG,SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE K. SEMA**

JUDGMENT & ORDER (ORAL)

Date : 03-12-2024

Heard Mr. K.R Patgiri, learned counsel for the petitioner, Mr. B. Gogoi, learned for the respondent No. 1, 3 & 6, Mr. B. Chakraborty, learned Standing counsel, Accountant General for the respondent No. 4 and Ms. S. Kemprai, learned counsel for the respondent No.5.

The case, in brief, as projected by the learned counsel for the petitioner is that the petitioner was initially appointed as a Muster Roll worker under the Office of the Executive Engineer, Barpathar (Road) Division, Silonijan on 01/04/1991. Thereafter, the service of the petitioner was regularized as Grade-IV employee w.e.f. 30/09/2005 vide the communication dated 30/09/2005 issued by the Government of Assam, Public Works Department(PWD), Audit Branch, Dispur, Guwahati.

It is the case of the petitioner that in the communication dated 30/09/2005, the petitioner's name appears at Sl. No. 14 under the Barpathar Road Division, NC Hills and the date of engagement of the petitioner is shown as 01/04/1991. The petitioner

retired from service on 30/04/2016 on attaining the age of superannuation after rendering service for 25 years 29 days.

After the retirement from service, the petitioner submitted the pension proposal paper in the Office of the respondent No.5 i.e. the Executive Engineer, Barpathar (Road) Division, Silonijan, District-Karbi Anglong, Assam and the respondent No.5 in turn forwarded the pension proposal papers of the petitioner to the respondent No.1 i.e. Commissioner & Secretary to the Government of Assam, Public Works (Road) department, Dispur, Guwahati vide letter dated 12/07/2016.

The respondents has however rejected the claim of the petitioner for pension and retiral benefits on the ground that the petitioner has not completed the minimum qualifying years of service of 20 years after deducting 6 years of initial Muster Roll service. The petitioner has been informed that the denial of the pensionary benefits and other retiral benefits is in terms of the O.M No. PPG(F)88/2009/2 dated 20/05/2009 issued by the Government of Assam, Pension and Public Grievance department, Dispur, Guwahati. The said O.M amongst other provided that after regularization of service of the Muster Roll workers, the period of Muster Roll services beyond the initial period of 6(six) years of Muster Roll service shall qualify for the purpose of pension and DCRG subject to the fulfillment of the following conditions;

“.....

1. *The period of Muster Roll Services of intial 6(six) years will be deducted.*

2.....

3.....”

It is the case of the petitioner that though he had served the Government of Assam in the Office of the Executive Engineer, PWD Barpathar Roads Division, Silonijan for 25 years 29 days, the petitioner has been denied the pensionary benefits in terms of the O.M dated 20/05/2009. The petitioner submits that if from his over all period of service of 25 years 29 days rendered in the department, the initial 6 years of service as Muster Roll is deducted, the petitioner becomes ineligible for pensionary and other post retiral benefits as the total length of service of the petitioner will be reduced to less than 20 years.

The learned counsel for the petitioner has relied in the judgment & order dated 04/12/2018 passed by this Court in W.P.(C) No. 1089/2015 in **Sanjita Roy -versus- State of Assam & Others** and batches of the writ petitions wherein this Court in paragraph-30 & 31 has held as follows;

“30. In view of such position, it is held that deduction of 6 years from their services while calculating 20 years of continuous service does not appear to be reasonable and fair. As regards the decision of this Court rendered in the case of Monsing Tisso (Supra), this Court is in agreement with the submission of Mr. Nair that the decision should be read in the context of the pleadings. It appears that an impression was given to the Court that 10 years of continuous service was the condition precedent for being eligible for pension. However, even without taking recourse to the said decision this Court has considered the present writ petitions in the forgoing manner.

31. In view of above discussion and by taking into consideration the various judicial pronouncements on the subject, the writ petitions are disposed of directing the respondent authorities to determine the continuous length of service of the petitioners as a Muster Roll Workers and if such service meets the bench mark of 20 years without any deduction, the benefit of pension should be made available to them. While carrying out said exercise, the respondent authorities are also directed to take recourse Rule 67 for those petitioners who fail to meet the bench mark of 20 years by 12 months or less. No order as to cost.”

The learned counsel for the petitioner submits that the case of the present

petitioner is also squarely covered by the Sanjita Roy (supra) and the petitioner is, therefore, entitled to pensionary and other retiral benefits since he has served the department for 25 years 29 days.

Mr. B. Gogoi, learned counsel for the respondent No. 1, 3 & 6 fairly submits that the case of the present petitioner is squarely covered by the case decided in Sanjita Roy (supra) and therefore, the petitioner is entitled to pensionary and other retiral benefits.

Heard the learned counsel for the parties and also perused the judgment & order dated 04/12/2018 passed by this Court in Sanjita Roy (supra) more particularly the findings in paragraph-30 & 31 of the said judgment. This Court accordingly holds that the present case is also covered by the Sanjita Roy (supra) and the petitioner is entitled to the pensionary and other retiral benefits.

The Government respondents shall accordingly finalize the pension and other retiral benefits due to the petitioner including the monthly superannuation pension counting the total length of service without any deduction from the petitioner's initial date of joining service, within a period of 3(three) months from the date of passing of this order.

The writ petition stands disposed with the above directions.

No order as to cost.

JUDGE

Comparing Assistant