
(2019) 08 GAU CK 0024
In the Gauhati High Court
Case No : Writ Petition (C) No. 3526 Of 2017

Abdul Sattar

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

Date of Decision : 08-08-2019

Acts Referred:

Citation : (2019) 08 GAU CK 0024

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : R Karim

Final Decision : Disposed Off

Judgement

1. Heard Mr. S.K. Das, learned counsel for the petitioner. Also heard Mr. N. Deka, learned Standing Counsel, Elementary Education Department and Mr. R. Borpujari, learned Standing Counsel, Finance Department for the respondents.

2. The matter pertains to the claim of the petitioner for payment of arrear salary of the petitioner for the period from 1.4.2005 to 31.3.2010 for an amount of Rs.7,20,488/-. It has been submitted that the aforesaid amount is not disputed by the authorities, as is evident from the order dated 28.1.2011 (Annexure-P-2) of the Director of Elementary Education, Assam, Kahilipara, Guwahati, in which has been mentioned as follows :

"Perused the order dated 13.7.2009 passed by the Hon'ble High Court in WP(C) No.404/2006 Md. Abdul Sattar -VS.- State of Assam. Seen relevant records submitted by the District Elementary Education Officer, Nagaon also an opportunity has been provided to both the petitioner and respondent No.7.

The issue at hand is whether the petitioner Md. Abdul Sattar submitted resignation from service willing or coercion and whether the B.Sc. pass certificate is fake as alleged.

After enquiry, it is reveal that the hand writing in the main body of the

application dtd. 28/4/2005 seeking resignation from the post of Headmaster is different from that of the signature of Md. Abdul Sattar appended in the petition, giving credence to the fact that the resignation submitted by the petitioner was written by someone else and involved coercion and threatening. Further, the affidavit dtd. 29/04/2005, on the basis of which the District Elementary Education Officer, Nagaon issued the resignation acceptance order on 02/05/2005 was not for resignation from service but from the post of Headmaster. Moreover, the DEEO not being the appointing authority and not the competent authority to accept resignation at the relevant period.

Regarding the genuineness of educational qualification, a copy of the B.Sc. pass certificate bearing Roll No.384/523 and Registration No.026450 of 1990-91 has been verified by the Registrar, Gauhati University and found to be correct and genuine, which leaves no ambiguity over the genuineness of the certificate.

On the basis of the findings of the enquiry, it is revealed that:-

1. The resignation of the petitioner was not a voluntary but involved coercion.
2. The petitioner was entitled to hold the post of Asstt. Teacher as the purported affidavit for resignation was from the post of H/M and not resignation from service.
3. The B.Sc. certificate of Abdul Sattar has been found correct and genuine by the Registrar, Gauhati University.
4. As the resignation of the petitioner was made under duress, he is entitled to salary from 02/05/2005.

Accordingly, the petitioner is allowed to resume his duties as H/M at Kandulimari MEM, in his original place of posting by protecting seniority, Grade, pay scale etc. with retrospective effect from 02/05/2005.

This the issued in compliance of the order of the Hon'ble High Court dated 13/7/2009 passed in WP(C) No.404/2006."

Pursuant the aforesaid order of the Director, Elementary Education, Assam, necessary proposal was sent to the authorities on 24.2.2011. However, no payment has been made. In this case, the State authorities have also not filed any affidavit.

However, considering the materials on record, this Court is of the opinion that since the aforesaid amount has not been paid, the respondent authorities are directed to make payment of the aforesaid amount, which shall be done within a period of four months from the date of receipt of a certified copy of this order.

The writ petition, accordingly, stands disposed of.