

(2020) 10 GAU CK 0003

In the Gauhati High Court

Case No : Writ Petition (C) No. 3904 Of 2020

Dilip Kumar Das

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 06-10-2020

Acts Referred:

Citation : (2020) 10 GAU CK 0003

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : L R Mazumder

Final Decision : Disposed Off

Judgement

1. Heard Mr. L.R. Mazumdar, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned counsel for the Accountant General, (A &E), Assam and Mr. D. Gogoi, learned counsel for the PHE Department and Mr. D. Nath, learned Additional Senior Government Advocate for the Director of Pension.

2. The petitioner was engaged as a muster roll worker in the office of the Executive Engineer (PHE) Silchar, Division-II at Ghungoor, Silchar on 01.03.1993. The services of the petitioner was regularized as muster roll workers in the year 2005 and the petitioner retired from service on 30.04.2016.

3. Admittedly, from the date of the initial engagement as muster roll worker, both the petitioner has completed more than 20 years of continuous service. Under the office memorandum dated 06.09.2003, the qualifying period for being entitled for pensionary benefits is 20 years and therefore, apparently, the petitioner is entitled to pensionary benefits. By another office memorandum dated 20.05.2009, a provision was incorporated that out of the total service period rendered by the muster roll workers both prior and after regularization, 6 (six) years would be deducted. This Court by the judgment and order dated 04.12.2018 in WP(C) No. 1089/2015 and other writ petitions had struck down the provision of the office memorandum dated 20.05.2009 providing for a

deduction of 6 (six) years of service. However, it had also been provided in a subsequent judgment that the requirement of not deducting the 6(six) years of service would be effective from 04.12.2018 when the earlier judgment was passed.

4. In the instant case, it is stated that the petitioner is not being paid the pensionary benefits as because after deducting 6(six) years from his total service, his service period is less than 20 (twenty) years.

5. As the requirement of deduction of 6 (six) years has already been struck down by this Court, we require the PHE Department to initiate the process for payment of the pensionary benefits to the petitioner by not deducting the period of 6 (six) years from his total service and in doing so, pass a reasoned order as to whether the petitioner is entitled or not entitled to pensionary benefits and if the petitioner is found to be entitled to pensionary benefits, further process be initiated leading the matter to a logical end.

6. The requirement be done within a period of 3 (three) months from the date of submission of the certified copy of this order.

7. Writ petition stands disposed of in the above manner.