

(2021) 10 GAU CK 0010

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 5357 Of 2021

Dr. Chandana Sinha Roy Vs State Of Assam And 3 Ors

Date of Decision : 07-10-2021

Acts Referred:

Citation : (2021) 10 GAU CK 0010

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : B D Das

Final Decision : Allowed

Judgement

1. Heard Mr. B.D. Das, learned senior counsel for the petitioner. Also heard Mr. K. Gogoi, learned counsel for the respondents No.1, 2 and 3 being the authorities under the Higher Education Department of the Govt. of Assam and Mr. R. Borpujari, learned counsel for the respondent No.4 being the authorities under the Finance Department.

2. The petitioner who was appointed as a Lecturer in the Department of Education in Pandu College, Guwahati on 02.03.1993 was subsequently promoted as an Associate Professor on 04.03.2007. While the petitioner was serving as an Associate Professor, a discrepancy was noticed that she was drawing a lesser amount of salary in comparison with her similarly placed junior colleagues. In the circumstance, the petitioner submitted a representation that her salary should be given the protection to ensure that it is not less than what her junior colleagues are receiving.

3. The said representation ultimately culminated in the order dated 07.09.2017 of the Director of the Higher Education, Assam, wherein, it is provided that pursuant to the Government letter No. 674/2016/59 dated 01.08.2017, there is a stepped up of the salary of the petitioner at the stage of Rs.52,110/- as on 01.07.2009 with DNI on 01.07.010 so as to equalise the pay the petitioner is being paid with that of her junior colleague Dr. Mrs. Asha Sarma who is also an Associate Professor in the Department of Political Science in the Pandu College.

The order provided that the stepped up was done as per FR-27 of FR & SR by invoking FR 5(A).

4. Subsequent to the order dated 07.09.2017 and with reference thereof, the Principal of Pandu College had made a communication dated 08.01.2018 through the Director of Higher Education, Assam whereby the consolidated statement regarding equalisation of arrear salary in respect of the petitioner was submitted. This petition is instituted on the grievance that the arrear salary as provided in the proposal of the Principal of Pandu College has not been provided to the petitioner. Nevertheless, it is stated that at present the petitioner is getting the stepped up salary as required. The communication dated 08.01.2018 of the Principal goes to show that an amount of Rs.5,37,172/- has been calculated by the authorities to be the arrear stepped up salary the petitioner to which she is entitled for the period 01.07.2009 to 28.02.2017.

5. By another communication dated 17.02.2021 of the Principal of Pandu College, Guwahati made to the Director of Higher Education, Assam, the consolidated statement of promotional arrear of the petitioner from 04.03.2007 upto 28.02.2015 amounting to Rs.8,14,440/- had been arrived at and there was a request that the said amount be also released in favour of the petitioner. The communication dated 17.02.2021 is also accompanied by a statement to show in what manner the aforesaid amount was arrived at. As the entitlement of the petitioner to the stepped up pay had been finally determined by the order dated 07.09.2017 of the Director of Higher Education, Assam and that too in pursuance of the Government letter dated 01.08.2017, it has to be understood that the entitlement to receive the stepped up pay had been finally decided by the authorities and the only requirement now is to make the payment. The two proposals of the Principal of the Pandu College dated 08.01.2018 and 17.02.2021 further fortifies the total amount of arrear salary that is payable to the petitioner. As the amount, as well as the entitlement, had already been determined, therefore, no further adjudication is required on the entitlement of the petitioner.

6. Accordingly, we deem it appropriate to issue a direction to the Director of Higher Education, Assam to do the needful and pass an appropriate order to enable the petitioner to receive the two payments as in the proposal of the Principal of Pandu College dated 08.01.2018 and 17.02.2021.

7. The payment be made within a period of three months from the date of receipt of the certified copy of the order.

Writ petition stands allowed as indicated above.