(2025) 09 GAU CK 0452

In the Gauhati High Court

Case No : WP(C) Of 1085 Of 2023

Sukuram Rabha @ Suk Ram Rabha APPELLANT

Vs

State Of Assam And 6 Ors RESPONDENT

Date of Decision : 11-09-2025

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2025) 09 GAU CK 0452

Hon'ble Judges : Manish Choudhary, J

Bench : Single Bench

Advocate : K R Patgiri, Chitralekha Das, U Hazarika, K Barman

Final Decision : Dismissed

Judgement

Manish Choudhary, J

1. By this writ petition under Article 226 of the Constitution of India, the petitioner has sought for setting aside and quashing of an entry regarding his date of birth entered in his service book and on the basis of such correction sought, also for a direction to finalize his pension and other retirement benefits.

2. The petitioner has projected that the entry regarding his date of birth, reflected in the service book, as 19.07.1948 is a subsequent entry and the other entry showing his date of birth as 01.01.1956 was an entry earlier to 19.07.1948. Meaning thereby, the purported first entry as regards date of birth, 01.01.1956 in the service book is the actual date of birth of the petitioner.

3. The petitioner came to be engaged as a Muster Roll Worker in the establishment of the Executive Engineer, Dhansiri Project Division, Irrigation Department at Udalguri, Assam in the year 1984 and he joined as a Muster Roll Worker on 04.06.1984. The petitioner continued to serve as a Muster Roll Worker till the year 2005. Pursuant to creation of 559 nos. of posts for Work-Charged Employees and 7764 nos. of Grade-IV posts for Muster Roll Workers with effect from 22.07.2005 by the Government of Assam, the service of the petitioner

came to be regularized by the State Government with effect from 22.07.2005 as a regularized Khalasi.

4. With regard to the petitioner’s regularization of service along with others, the Secretary to the Government of Assam, Irrigation Department forwarded an Office Letter dated 03.10.2005 to the office of the Accountant General [A&E], Assam along with the Office Letter dated 03.10.2005 the details of the employees, who worked as Muster Roll Workers and whose services were regularized, had been regularized. In the enclosure to the Office Letter dated 03.10.2005, the petitioner’s name had figured along with others. The date of engagement of the petitioner as Muster Roll Worker was shown as 04.06.1984. In so far as the date of birth and the date of retirement on superannuation are concerned, the dates were shown as 19.07.1948 and 31.07.2008 respectively.

5. It is the case of the petitioner that after regularization, the petitioner was asked to submit a certificate reflecting his date of birth and accordingly, he submitted a Transfer Certificate issued by the Headmaster, Borigaon High School on 19.01.2006. The petitioner has stated that he studied lastly at Borigaon High School. It was after submission of the Transfer Certificate dated 19.01.2006, the date of birth in the service book came to be corrected by the respondent authorities as 01.01.1956. It is the further case of the petitioner that on the basis of the date of birth, 01.01.1956 so entered in his service book, the petitioner continued to serve as a regularized Khalasi till he was made to retire on 31.12.2015 on reaching the age of superannuation. But subsequently, the petitioner was asked to report at the office of the respondent no. 6 for answering certain queries. When he attended the office of the respondent no. 6, the petitioner was quizzed stating that the petitioner already retired from service on 31.07.2008 and he did not perform duties since 01.08.2015. The respondent no. 6 forwarded the pension proposal papers to the office of the respondent no. 6 vide an Office Letter dated 05.01.2017. Finding discrepancy in the date of birth entered in the service book, correspondences were exchanged among the authorities in the Irrigation Department regarding the petitioner's actual date of birth. When finally pension proposal papers were forwarded to the office of the Accountant General, Assam, the office of the Accountant General, Assam returned the pension papers to the Irrigation Department asking queries as to how overpayment to the extent of Rs. 11,06,514/- had occurred. As the matter of pension has not been processed and finalized by the respondent authorities, the petitioner is before this Court by the instant writ petition with the prayer, mentioned above.

6. I have heard Mr. K.R. Patgiri, learned counsel for the petitioner; Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department for the respondent nos. 1 & 3; Mr. A. Chakraborty, learned Junior Government Advocate, Assam for the respondent no. 2; Mr. B. Chakraborty, learned Standing Counsel, Accounting General [A&E], Assam for the respondent no. 4; and Mr. P. Nayak, learned Standing Counsel, BTC and Finance Department for respondent nos. 5, 6 & 7.

7. As the issue here is limited to the date of birth of the petitioner, the learned counsel for the parties have confined their submissions on the said issue only.

8. Mr. Nayak has also placed the original copy of the service book maintained by the respondent no. 6 for perusal of the Court which has been returned to him after perusal.

9. Mr. Patgiri, learned counsel for the petitioner with regard to the relief sought for in the writ petition, has submitted that in the service book, the entry 01.01.1956 was the first entry with regard to the petitioner's date of birth and the entry, 19.07.1948 was a subsequent entry. Therefore, the petitioner's period of service is to be counted by taking 01.01.1956 as his date of birth and if 01.01.1956 is to be taken as the petitioner's date of birth, the petitioner had rightly continued in service up-to 31.12.2015.

10. The learned counsel for the official respondents have refuted such contention on the basis of the entries entered in the service book of the petitioner. It is the contention that from their perusal in the service book, it is evident that the entry, 19.07.1948 was the original and first entry and the entry, 01.01.1956 was a subsequent entry. They have also based their submissions on other materials on record including the Order of Regularization dated 03.10.2005.

11. In the order of regularization dated 03.10.2005 and the enclosure thereto, the petitioner's date of engagement as Muster Roll Worker, the date of birth and the date of retirement on superannuation were mentioned as 04.06.1984, 19.07.1948 and 31.07.2008 respectively. If the date of birth, 19.07.1948 of the petitioner is to be taken as his actual date of birth, then the petitioner had to retire from service as a regularized Khalasi on and from 31.07.1948.

12. On perusal of the entries in the service book, it is noticed that entries were entered in the service book even subsequent to 31.07.2008. It is further noticed that endorsements were made to the said entries under the seal and signature of the Executive Engineer. The entries also reflected that the petitioner was granted annual increments also for the period subsequent to 31.07.2008.

13. At this juncture, it is appropriate to look into the document, that is, the Transfer Certificate dated 19.01.2006, issued by the Headmaster, Borigaon High School. It is a certificate evidently issued after the regularization of service of the petitioner on 03.10.2005.

14. As per the Transfer Certificate, the petitioner left Borigaon High School on 01.02.1978 and the date of birth of the petitioner on that date, purportedly according to the Admission Register of the School, was 01.01.1956. The certificate further mentioned that the petitioner was studying in Class-VII in the year 1976. From the Transfer Certificate, it emerges that the petitioner studied in Class-VII till the age of twenty years. If the petitioner studied in Class-VII in the year 1976, the reason for his leaving the said School on 01.02.1978 is beyond comprehension, as the petitioner has not provided any explanation to that effect.

When the pension proposal papers are looked at, it is discernible that the pension proposal papers were prepared entering the petitioner’s date of birth and date of retirement as 19.07.1948 and 31.07.2008 respectively. It is easily noticeable that the pension proposal papers were prepared in blue ball-pen handwritings. What striking is that at every place where the petitioner's date of birth and date of retirement were written as 19.07.1948 and 31.07.2008 respectively and those have been striked-off and alongside them, they have been replaced by date of birth, 01.01.1956 and date of retirement, 31.12.2015 in blank ball-pen handwritings.

15. Interestingly, even the petitioner while filing the writ petition, has sworn his age as 75 years in the affidavit dated 09.02.2023 accompanying the writ petition. If the statement of his age is taken as 75 years as 09.02.2023, the petitioner’s date of birth relates back to 1948 only.

16. If all the materials discussed above are taken into consideration, this Court is of the considered view that the only conclusion which can be arrived at as regards the petitioner’s date of birth is 19.07.1948. All the entries regarding his date of birth, 01.01.1956, are found to be suspicious made subsequently. If the entries in the Service Book, the endorsement made thereof, and the Transfer Certificate issued on 19.01.2006 are read together, the entries regarding the petitioner’s date of birth, 01.01.1956 are suggestive of acts of collusion and connivance with the petitioner along with the officials in the Irrigation Department. Be that as it may, this Court having examined all the records produced by the respondent authorities including the original service book, is of the view of the entry, 19.07.1948 entered in the service book of the petitioner was the original entry and therefore, the benefits like pension and other benefits are to be worked out taking into consideration the petitioner’s date of birth as 19.07.1948. On the basis of the materials presented, this Court is not persuaded to accept that the entry, 01.01.1956 was the original entry in his service book and his pension and other retirement benefits are to be worked out accordingly. Therefore, declining the relief sought for in this writ petition, the writ petition is dismissed. There shall, however, be no order as to cost.

