

GAHC010097182023



2026:GAU-AS:5944

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

Case No. : WP(C)/2593/2023

SANDEEP BHARALI
S/O LT. RAM BHARALI R/O COLONEL SIBO RAM BORA LANE MALIBAGAN
HOUSE NO 26 KHARGULI P.O. KHARGHULI P.S LATASIL GUWAHATI 781004
DIST KAMRUP (M)

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE ITS COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM MEDICAL EDUCATION AND RESEARCH DEPTT. DISPUR
GUWAHATI 6

2:THE SECRETARY
TO THE GOVT. OF ASSAM MEDICAL EDUCATION AND RESEARCH DEPTT.
DISPUR GUWAHATI 6

3:THE JOINT SECRETARY
TO THE GOIVT. OF ASSAM MEDICAL EDUATION AND RESEARCH DEPTT.
DISPUR GUWAHATI 6

4:THE DIRECTOR OF MEDICAL EDUATION ASSAM
GUWAHATI 22

5:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM FINANCE DEPTT. DISPUR GUWAHATI 6

6:THE COMMISSIONER AND SECRETARY
TO THE GOVT.OF ASSAM FINANCE DEPTT. DISPUR GUWAHATI 6

7:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM PENSION AND PUBLIC GRIEVANCE DEPTT.
DISPUR GUWAHATI 6

8:THE ACCOUNTANT GENERAL
ASSAM
BELTOLA GUWAHATI 29

9:THE PRINCIPAL
MEDICAL INSTITUTE OF JORHAT JORHAT PIN 785001

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

Advocate for the Petitioner : Mr. B. M. Deka, Id. counsel.

Advocate for the Respondents : Mr. D. Upamanyu, Id. SC, Health, resp. Nos. 1 to 4 & 9; Mr. A. Chaliha, Id. SC, Finance, resp. Nos. 5 & 6; Mr. A. Chakraborty, Id. Govt. Adv., resp. No.7; and Ms. Tinglung, Id. counsel appearing on behalf of Mr. R. K. Talukdar, Id. counsel for resp. No.8 .

Date on which Judgment is reserved : 23.04.2026

Date of Hearing : 23.04.2026

Date of Judgment and Order : 30.04.2026

Whether the pronouncement is of the Operative part of the Judgment?
: No

Whether the full Judgment has been pronounced ? : Yes

JUDGMENT & ORDER

(CAV)

Heard Mr. B. M. Deka, learned counsel for the petitioner. Also heard Mr. D. Upamanyu, learned Standing Counsel, Health & Family Welfare Department for the respondent Nos. 1, 2, 3, 4 & 9; Mr. A. Chaliha, learned Standing Counsel, Finance for the respondent Nos. 5 & 6; Mr. A. Chakraborty, learned Government Advocate appearing on behalf of respondent No.7; and Ms. Tinglung, learned counsel appearing on behalf of Mr. R. K. Talukdar, learned counsel representing the respondent No.8.

2. The petitioner was appointed as a Junior Teacher in the Medical Institute, Jorhat, on 14.12.2010 and joined the service on 27.12.2010. After serving as a Junior Teacher for 10 (ten) years in the Medical Institute, Jorhat, the petitioner submitted his resignation on 02.01.2021. The resignation submitted by the petitioner was accepted by the competent authority on 17.11.2022 with effect from 02.01.2021, as desired and requested by the petitioner.

3. As no pensionary benefit was provided, the petitioner approached this Court by filing the present writ petition seeking the following reliefs from the respondent's authority:

i. To release/disburse the pensionary benefits, gratuity, and earned leave encashment, along with advance increments since joining the job, and arrear dues entitled under the 7th Pay Commission till the date of resignation.

ii. To release/disburse the entire amount contributed to the petitioner's Permanent Pension Account Number (PRAN No. 110001458408) under the

New Defined Contribution Scheme, 2009, and to allow him to withdraw the entire amount so credited in his said account.

4. The learned counsel for the petitioner submits that the petitioner had rendered more than 10 years of continuous service and therefore he is entitled to pensionary benefits, gratuity and other consequential dues. It is contended that the resignation was tendered due to non-functioning and improper management of the institution and not with any intention to forfeit service benefits. It is further submitted that the petitioner is entitled to earned leave encashment, arrears under 7th Pay Commission and grant of advance increments from the date of joining. Additionally, it is argued that the amount accumulated in the petitioner's Permanent Retirement Account under the defined Contribution Pension Scheme, 2009 is his rightful entitlement and the respondent are bound to release the same. It is also contended that denial of benefits on the ground of non-submission of prescribed forms as contended by the respondent is arbitrary and technical in nature and hence, it violate the principle of natural justice.

5. The respondent No.4 filed an affidavit and contended that, as per Rule 62(a) of the Assam Services (Pension) Rules, 1969, since the petitioner voluntarily resigned from his service as a Junior Teacher in the Medical Institute, Jorhat, and his resignation has been accepted by the Medical Education & Research Department, his past service stands forfeited; hence, he is also not entitled to the benefit of leave encashment.

6. Upon consideration of the pleadings and the materials on record, it is not in dispute that the petitioner voluntarily resigned from his service as a Junior Teacher for whatever reason, and his resignation has been duly accepted by the

competent authority with effect from the date requested by him, i.e., 02.01.2021. There is no material to show that the resignation submitted by the petitioner was for the purpose of taking up another qualifying government appointment. Under Rule 62(a) of the Assam Services (Pension) Rules, 1969, a resignation in such circumstances results in forfeiture of past service of the incumbent.

7. Consequently, the petitioner is not entitled to pension or gratuity as claimed. The claim of the petitioner for advance increments cannot be entertained after acceptance of resignation and in the absence of prior sanction of the competent authority. However, the petitioner's claims regarding earned leave encashment and salary arrears, including the benefits of the 7th Pay Commission up to the date of resignation, if admissible under the rules, stand on a different footing and therefore, the same may have to be dealt with separately in accordance with the law.

8. Further, with respect to the release/disbursement of the New Defined Contribution Pension Scheme (PRAN No. 110001458408), the amount credited belongs to the petitioner as his individual contribution along with the employer's contribution and is governed by the rules of the scheme. The petitioner is entitled to receive or withdraw the admissible amount in accordance with the procedure prescribed under the said scheme.

9. In view of the above, the petitioner's claims for pension, gratuity and advance increments are rejected.

10. However, the respondent (s) authority shall process and release the earned leave encashment to the petitioner, if admissible.

11. The respondent authorities shall also calculate the arrears of salary,

including the benefits of the 7th Pay Commission, up to the date of acceptance of his resignation on 02.01.2021. The respondents shall further take necessary steps for the release/withdrawal of the amount lying in the petitioner's PRAN Account No. 110001458408 in accordance with the New Defined Contribution Pension Scheme, 2009.

12. Further, if any formality or application is required, the petitioner shall submit the same before the competent authority within 4 (four) weeks from the date of receipt of this order, and thereafter, the respondents shall complete the process within a reasonable period of time. The entire exercise shall be completed within a period of 4 (four) months from the date of receipt of certified copy of this order.

13. With the above observations, this writ petition stands partly allowed to the extent as indicated herein.

JUDGE

Comparing Assistant