

GAHC010010012012



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

Case No. : WP(C)/5698/2012

1. AJIT KUMAR SAHU and 23 ORS
S/O SANKAR SAHU
VILL and P.O. NATUN RAMNAGAR DIST. CACHAR.

2: GITA RANI SINGHA,
D/O GUNADHAR SINGHA
VILL- RAMNAGAR TUKO DIST. CACHAR, ASSAM.

3: MEENA NATH
D/O NIBARAN CHANDRA NATH
VILL and P.O. PANIBHARA DIST. CACHAR, ASSAM.

4: KUMARJIT SINGHA
S/O MEINO SINGHA
VILL and P.O. KAMARANGA PT-I
DIST. CACHAR, ASSAM.

5: PRADIP KUMAR SINGHA
S/O PRODIP KUMAR SINHA
VILL- WEST KACHUDARAM P.O. CHINCOORIE
DIST. CACHAR, ASSAM.

6: ALTAF HUSSAIN LASKAR
S/O MONAZIR ALI LASKAR
VILL and P.O. BAGPUR PT.II
DIST. CACHAR, ASSAM.

7: ABDUL JALIL LASKAR
S/O MOTAHIR ALI LASKAR
VILL and P.O. JOYNAGAR DIST. CACHAR, ASSAM.

8: BINA PAUL DAS
D/O MANINDRA CH. PAUL VILL- LAKHIPUR
P.O. KALON DIST. CACHAR, ASSAM.

9: BADRUL ISLAM BARBHUIYA
S/O JAMIR UDDIN BARBHUIYA
VILL and P.O. GANIRGRAM PT.II
DIST. CACHAR, ASSAM.

10: HAZANZAMAN LASKAR
S/O AIN UDDIN LASKAR
VILL and P.O. BANSKANDI
DIST. CACHAR, ASSAM.

11: MOHAMMAD ALI BARBHUIYA
S/O ALA UDDIN BARBHUIYA
VILL and P.O. GANIRGRAM
DIST. CACHAR, ASSAM.

12: AZIMUL ISLAM BARBHUI8YA
S/O SIRAJ UDDIN BARBHUIYA
VILL and P.O. GANIRGRAM
DIST. CACHAR, ASSAM.

13: KHALIL AHMED BARBHUIYA
S/O MASADDAR ALI BARGHUIYA
VILL and P.O. BURIBAIL
DIST. CACHAR, ASSAM.

14: SAHAB UDDIN CHOUDHURY
C/O MOHI SENA SINGHA
VILL- BHATIRGRAM P.O. BEKIRPAR
DIST. CACHAR, ASSAM.

15: ZOY SRIKRISHNA JADAV
S/O JAGANNATH GOALA
VILL- DIBIPUR,P.O. DHOLAI
DIST. CACHAR, ASSAM.

16: ABDUL KALAM LASKAR
S/O AZIM UDDIN LASKAR
VILL- BAGPUR, P.O. BAGPUR DIST. CACHAR, ASSAM.

17: ABDUL KUDDUS BARBHUIYA
S/O LT. MUFASSIL ALI BARBHUIYA
VILL- BURIBAIL-I, P.O. GANIRGRAM
DIST. CACHAR, ASSAM.

18: ALTABUL ISLAM LASKAR
S/O NURULISLAM LASKAR
VILL and P.O. BURIBAIL DIST. CACHAR, ASSAM.

19: ABDUL JALIL BARBHUIYA
S/O TAFAZUL ALI BARBHUIYA
VILL- BURIBAIL-II, P.O. GONIRGRAM DIST. CACHAR, ASSAM.

20: WASI UDDIN BARBHUIYA
S/O CHOUDHURY HAMID UDDIN BARBHUIYA
VILL and P.O. BANSKANDI DIST. CACHAR, ASSAM.

21: RITA KUMAR SRIVASLAN
W/O UJJAL SRIVASTAV
VILL and P.O. PAILAPOOL DIST. CACHAR, ASSAM.

22: ANUPAMA CHOUDHURY
D/O LT. BENIMADHAB CHOUDHURY
VILL and P.O. TASRAPUR DIST. CACHAR, ASSAM.

23: NAHAR UDDIN BARBHUIYA
S/O MUFIZ UDDIN BARBHUIYA VILL and P.O. BURIBAIL DIST. CACHAR
ASSAM.

24: MINARA BEGAM LASKAR
D/O FAJLA HQ LASKAR
VILL and P.O. GANIRGRAM DIST. CACHAR, ASSAM

-----VERSUS-----

1. THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION E DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER and SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR, GUWAHATI-781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION, ASSAM
KAHILIPARA, GUWAHATI-781019.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER, CACHAR
SILCHAR, ASSAM- 78800

Advocate for the Petitioner : MR.S HOQUE

Advocate for the Respondent : SC, EDU

- B E F O R E -
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

30.01.2024

Heard Mr. S. Hoque, learned counsel for the petitioners. Also heard Mr. P.K. Borah, learned Standing Counsel, Elementary Education Department and Mr. B. Gogoi, learned Standing Counsel, Finance Department.

The petitioners, in the present proceedings, claim to have been appointed as Assistant Teachers in various M.E. Schools of Cachar District in the year 1994 and their such appointments have been effected after approval by the Sub-Divisional Level Advisory Board.

The appointments of the petitioners came to be cancelled in terms of the communication dated 20.12.1994 on the ground that the petitioners were appointed against non-existent posts. The said cancellation of the appointments led to persons similarly situated like the present petitioners to institute a writ petition before this Court, being C.R. No.324/1995 and this Court vide order dated 20.01.1995 directed that the petitioners therein be not ousted from their services. The direction was also issued for release of their salary. It is projected that in pursuance of the said order dated 20.01.1995, the petitioners were also reinstated to their respective posts with all financial benefits.

The case of the petitioners were thereafter placed before the Enquiry Committee headed by Shri S. Manoharan, commonly known, as Manoharan Committee for verifying as to whether the services of the petitioners were irregular and/or illegal. The Cabinet in its meeting held on 24.02.2005, on consideration of the report as submitted by the said Committee decided that the services of around 2776 numbers of teachers working at various schools

appointed in excess of the posts during the period 01.03.1991 to 31.11.1996 to be regularized. It is stated that the names of the petitioners figure within the said list of 2776 numbers of teachers.

Accordingly, the services of the petitioners were regularized with effect from the date of their joining by the Director of Elementary Education, Assam vide an order dated 20.08.2005.

The petitioners claim that after such regularization of their services they are continuing to discharge their duties but their salaries have not been released till date.

Being aggrieved, the petitioners have instituted the present proceedings. During the course of hearing of the present proceedings Mr. P.K. Borah, learned Standing Counsel, Education Department has placed on record instructions received by him vide communication dated 29.01.2024 wherein it has been admitted that the services of the petitioners have been regularized with effect from the date of joining vide the said order dated 20.08.2005. However, it was stated in the said instructions that the salaries of the petitioners could not be released on account of a W.T. Message of the Finance (Budget) Department, to the Deputy Commissioner, Cachar with information to the Treasury Officer, Cachar. Vide the said W.T. Message dated 07.10.2005 wherein noticing that fake appointment orders were in existence in Cachar District regularizing ineligible persons, on the strength of the Cabinet decision dated 24.02.2005, it was required not to entertain any salary bill of teachers appointed in pursuance to the said Cabinet decision of 24.02.2005.

It is contended that on account of the said direction of the Finance (Budget) Department the salaries of the petitioners could not be released.

It is seen that the said W.T. Message was issued on 07.10.2005 and

thereafter, no exercise has been undertaken by the respondent authorities for verifying the appointment status of the petitioners.

The said W.T. Message was so issued on an apprehension that certain fake appointments were effected in Cachar District in pursuance to the said Cabinet decision.

It was open to the departmental authorities to verify their records as to whether the appointment orders of the petitioners including the order of regularization issued in their respective cases were so issued basing on the materials available on record and was so issued by the departmental authorities.

There being no dispute that the petitioners' services were regularized as far back on 20.08.2005, the salaries of the petitioners could not have been withheld for the last 19 years.

Taking note of the position brought on record by the respondent authorities through the said communication dated 29.01.2024, this writ petition is disposed of directing the Director of Elementary Education, Assam to verify the service status of the petitioners and also to verify as to whether the petitioners were included in the list of 2776 Nos. of LP/ME/MEH/HS/HSS teachers who were required by the decision of the cabinet to be regularized in their services and on arriving at a conclusion with regard to the service status of the petitioners on the said issues, the Director of Elementary Education Assam shall pass appropriate orders towards release of the salaries of the petitioners, which is stated to be pending with effect from the date of regularization of their services with effect from 20.08.2005. The enquiry/verification as required to be carried out in terms of the order herein above shall be carried out and concluded by the Director of Elementary Education Assam within a period of 2 (two) months from the date of receipt of a certified copy of this order along

with a representation from each of the petitioners.

For the above purpose, the petitioners shall submit individual representation along with a certified copy of this order before the Director of Elementary Education, Assam for taking the matter forward.

On conclusion of the enquiry/verification as required hereinabove, if it is found that the petitioners have been correctly regularized in their services vide the order dated 20.08.2005, the current salaries of the petitioners shall immediately be released.

With regard to the arrear salaries pending with effect from 20.08.2005 till conclusion of the enquiry, as directed above, shall be released by the respondent authorities to the petitioners within a period of 6(six) months.

With the above observations and directions, the present writ petition stands disposed of.

A copy of the communication dated 29.01.2024 received from Mr. P.K. Borah, learned Standing Counsel, Elementary Education, Assam is kept on record and marked as "X".

JUDGE

Comparing Assistant