

GAHC010006172016



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

Case No. : WP(C)/183/2016

AJIT CHANDRA MARDI and 49 ORS
ASSTT. TEACHER, LABDANGURI L.P. SCHOOL PROVINCILISED, S/O- VILL.
NO. 2 LARUGAON, P.O.- BAGARGAON, P.S.- BIJNI, DIST.- CHIRANG, BTAD,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
EDUCATION ELEMENTARY DEPTT., DISPUR, GUWAHATI, ASSAM, PIN-
781006.

Advocate for the Petitioner : MR.K R PATGIRI

Advocate for the Respondent : SC, FINANCER 2,10,11

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
O R D E R

23.03.2023

Heard Mr. K.R. Patgiri, learned counsel for the petitioners as well as Mr. R. Mazumder, learned standing counsel for the Elementary Education and Mr. B.

Gogoi, learned standing counsel for the Finance Department appearing for the respondent no.2 as well as Mr. R. Das, learned standing counsel appearing for the respondent no.3 and Ms. D.D. Barman, learned standing counsel for the respondent no.8. None appears on call for the BTC representing the respondent nos.5 to 7 and 9 to 11.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioners whose service were not yet provincialised but had rendered service till date have prayed for issuing a direction upon the respondent authorities to release the arrear monthly stipend amount of Rs.900/- per month from November 1997 till date.

3. The case of the petitioners in brief is that by virtue of documents annexed as Annexure-1 series, the petitioners were appointed as Assistant Teachers of various LP schools in the Bijni Sub-division in the district of Bongaigaon and as per the appointment orders the petitioners were entitled to receive remuneration and the fixed stipend grant-in-aid of Rs.900/- per month w.e.f. 01.11.1995 till provincialization of their services. It was further provided that there would be fresh and final appointment order to be issued after provincialization of their services.

4. It is claimed that the petitioners have rendered their service uninterruptedly till date but they have not received their stipendiary grant-in-aid from November, 1997.

5. The learned counsel for the petitioners has referred to the affidavit-in-opposition filed by the authorities of the Director of Education, BTC representing

respondent nos.5 to 7 and by referring to the statements made in paragraph 5 to 8 therein, it is submitted that the petitioners were appointed on fixed pay of Rs.900/- per month w.e.f. 01.11.1995 and that the authorities had paid the stipendiary amount of Rs.900/- per month from 01.11.1995 to 31.10.1997 and it is also admitted that thereafter no payment has been made from the establishment of Director of Education, BTC due to lack of fund allotment received from Bodoland Autonomous Council (BAC).

6. By referring to statement made in paragraph 8 of the affidavit-in-opposition filed by respondent nos.5 to 7, it is submitted that an incorrect statement has been made therein to the effect that by referring to the appointment of mother teachers with fixed pay of Rs.500/- per month, it is submitted that the said reference is made with regard to judgment dated 10.04.2012 passed by this Court in WP(C) 864/2009 and it is submitted that although in paragraph-11 it is mentioned that the service of the petitioners was terminated w.e.f. 12.11.2004. Such statement is not supported by any document.

7. The learned standing counsel for the Elementary Education Department as well as the learned standing counsel for the Finance Department has stated that as the BTC has admitted the engagement of the petitioners it would be appropriate that before any payment is directed to be released the authorities shall satisfy themselves about the period upto which the petitioners have been rendering their service.

8. In this case, the respondent nos.5 to 7 have admitted that the

petitioners were paid stipendiary remuneration of Rs.900/- per month upto 31.10.1997. Therefore, the said admission implies that w.e.f. 01.11.1997 till 12.11.2004 the stipendiary remuneration to the petitioners have not been paid @ Rs.900/- per month.

9. In view of such admission that the petitioners have rendered service upto 12.11.2004, the Court is inclined to direct the respondent nos.5 and 7 namely, The Bodoland Territorial Council represented by its Principal Secretary (respondent no.5) and The Director of Education, The Bodoland Territorial Council (respondent no.7) to release the admitted amount of stipend remuneration of Rs.900/- to all the petitioners for a period from 01.11.1997 to 12.11.2004.

10. The said amount shall be released within an outer period of 3 months from the date of receipt of the certified copy of the order. On failure to release such payment the amount shall carry interest @ 9% after expiry of the said 3(three) months. The State of Assam shall be at liberty to recover the interest from the concerned officers who are found to be in default in releasing the payment.

11. In so far as the claim of the petitioners that they have been working uninterruptedly even after 12.11.2004 till date, the Court is inclined to direct the respondent no.7 i.e. The Director of Education, Bodoland Territorial Council, to make an inquiry as to the correctness of the claim of the petitioners that they have been working uninterruptedly after 12.11.2004 till date. The inquiry in respect of the 50 petitioners herein regarding rendering of their service beyond

12.11.2004 shall be made by the respondent no.7 within an outer period of 2(two) months from the date of receipt of the certified copy of the order and within 3(three) months thereafter the respondent nos.5 and 7 shall release the balance stipendiary remuneration found due to the petitioners, as would be applicable from time to time.

12. Accordingly, this writ petition stands hereby allowed to the extent as indicated above.

13. There shall be no order as to cost.

14. In the meanwhile the learned standing counsel, Secondary Education Department as well as standing counsel, Finance Department shall also transmit a copy of this order to the respective authorities to bring the order to their notice.

JUDGE

Comparing Assistant