

GAHC010011702021



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

Case No. : WP(C)/493/2021

SOLEMAN ALI SHEIKH AND ANR.
H.T. ANSARIA MEMORIAL L.P. SCHOOL, S/O LATE ANASUR ALI SK., VILL.
ALOMGANJ PART-V, P.O. ALOMGANJ, P.S. GAURIPUR, DIST. DHUBRI,
ASSAM, PIN 783339

2: MD AZIZUL HOQUE

A.T. SONAULLAH MEMORIAL L.P. SCHOOL
S/O LATE AHED ALI
VILL. CHOURIRCHAR PART-I
P.O. ALOMGANJ
P.S. FOKIRGANJ
DIST. DHUBRI
ASSAM
PIN 78333

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, EDUCATION DEPTT. (ELEMENTARY), DISPUR, GUWAHATI 6

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DIST. ELEMENTARY EDUCATION OFFICER

DHUBRI
DIST. DHUBRI
ASSAM
PIN 783301

4:THE BLOCK ELEMENTARY EDUCATION OFFICER

GAURIPUR EDUCATION BLOCK
GAURIPUR
DIST. DHUBRI
ASSAM
PIN 783331

5:THE TREASURY OFFICER

DHUBRI
DIST. DHUBRI
ASSAM
PIN 78330

Advocate for the Petitioner : MR. R ISLAM

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 25.01.2023

Heard Mr. R. Islam, the learned counsel appearing on behalf of the petitioner and Mr. B. Kaushik, the learned counsel appearing on behalf of the respondent Nos. 1 to 4 as well as Mr. B. Gogoi, the learned counsel appearing on behalf of the respondent No. 5.

2. The instant writ petition has been filed seeking a mandamus upon the respondent authorities to process and release the arrear salaries of both the petitioners for the suspension period w.e.f. 01/12/2015 to 31/10/2018 totaling to amount of Rs. 10,46,140/- as has been calculated in the enclosure to the communication dated 20/02/2020 issued by the District Elementary Education Officer, Dhubri to the Director of Elementary Education.

3. It is the case of the petitioners that both the petitioners herein were suspended for the period from 1/12/2015 to 31/10/2018 and there was a disciplinary proceedings initiated against them. In the said disciplinary proceedings the District Elementary Education Officer, Dhubri vide orders dated 7/5/2019 in each of the case of the petitioners i.e. Annexure-B and Annexure-C to the writ petition has held that during the suspension period the petitioners would be allowed to draw annual increment and arrear salary and the period of suspension would be treated as on duty. Accordingly, the District Elementary Education Officer, Dhubri vide the communication dated 20/2/2020 issued to the Director of Elementary Education had placed the proposal. It was is case of the petitioner that in spite of the proposal being submitted on 21/2/2020, the arrear salaries have not been released to the petitioners, for which the instant writ petition has been filed.

4. Mr. B. Kaushik, the learned counsel appearing on behalf of the Respondent/Elementary Education Department submitted that taking into account that vide order dated 7/5/2019 it was held that the petitioners would be allowed to draw annual increment and arrear during the period of suspension and the period of suspension would be treated as on duty, the petitioners are entitled to the amount as has been mentioned in Annexure-G to the writ petition.

5. Taking into account the said submission and upon perusal of the materials on record, it appears that the petitioners are entitled to the arrear salary during the period from 1/12/2015 to 31/10/2018. The statements as regards the arrear salary which has been given in Annexure-G to the writ petition has been signed by the Block Elementary Education Officer, Gauripur and countersigned by the District Elementary Education Officer, Dhubri. Under such circumstances,

this Court directs the respondent authorities more particularly the respondent No. 2 to release the outstanding dues of both the petitioners as mentioned in Annexure-G to the writ petition as expeditiously as possible, not later than 3 (three) months from the date a certified copy of the instant order alongwith the copy of the writ petition is furnished to the respondent no. 2.

6. It is further directed that the respondent No. 2 shall also issue appropriate correspondences to the respondent No. 5 so that the amount, to which the petitioners are entitled to, are processed and released within the above mentioned period.

7. With the above observations and directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant