

GAHC010022212023



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

Case No. : WP(C)/666/2023

DHIRITISHREE DEVI
W/O- SRI K.K. DAS,
R/O- K.K.B. ROAD, CHENIKUTHI,
DIST.- KAMRUP(M), GUWAHATI- 781003,
ASSAM.

VERSUS

THE GOVT. OF ASSAM AND 4 ORS.
REP. BY COMMISSIONER AND SECRETARY,
EDUCATION DEPARTMENT,
GOVT. OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:JOINT DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

4:DEPUTY SECRETARY TO THE GOVT. OF ASSAM
EDUCATION DEPARTMENT
ASSAM.

5:DEPUTY DIRECTOR OF SECONDARY EDUCATION
ASSAM
GUWAHATI- 781019

Advocate for the Petitioner : MR. S KALITA

Advocate for the Respondent : SC, EDU

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 13.03.2023

Heard Mr. S. Kalita, the learned counsel appearing on behalf of the petitioner. Mr. N.J. Khataniar, the learned counsel appears on behalf of all the respondents.

2. The case of the petitioner herein is that the petitioner was transferred vide an order dated 12/01/2005 from Darranggiri H.S. School of Goalpara district and posted at Sualkuchi H.S. School under Kamrup district.

3. Pursuant thereto on 18/1/2005, the Principal of Darranggiri HS School released the petitioner and vide a communication intimated the same to the Principal, Sualkuchi HS School. On the very date, however the Director of Secondary Education passed an order whereby the transfer order dated 12/1/2005 was kept in abeyance until further orders. Under such circumstances, the petitioner remained hanging in view of the fact that she was released from Darranggiri HS School and could not join the transferred school i.e. Sualkuchi HS School in view of the order dated 18/1/2005 issued by the Director of Secondary Education. The petitioner thereupon filed a writ petition which was registered and numbered as W.P.(C) No. 4324/2005.

4. This Court vide an order dated 19/8/2005 disposed off the writ petition with a direction to the Director of Secondary Education to consider the case of

the petitioner if so presented by way of a representation within 2 weeks thereby accommodating the petitioner to Sualkuchi HS School or any other place of her choice. Further to that, this Court had also stayed the order dated 18/1/2005 issued by the Director of Secondary Education. It was mentioned that the petitioner has to be treated as a subject teacher in Darranggiri HS School and her salary has to be paid forthwith along with the arrears.

5. Thereupon it further appears that vide an order dated 9/9/2005, the order dated 18/1/2005 was vacated and the petitioner was instructed to join the Sualkuchi HS School, Kamrup. On 10/9/2005, the petitioner thereupon joined the said school.

6. The case of the petitioner herein is that the period from 19/1/2005 to 9/9/2005 the respondent authorities have not paid the salary as well as the consequential increment to which the petitioner is otherwise entitled to. Under such circumstances, the petitioner submitted a representation before the authorities concerned. The Director of Secondary Education vide a communication dated 18/11/2005 had requested the Commissioner and Secretary to the Government of Assam, Education Department to kindly issue necessary order (s) thereby regularizing the hanging period of service of the petitioner during the period from 19/1/2005 to 9/9/2005 and so that the arrear salary of the petitioner could be released. In spite of said stand taken by the Director of Secondary Education, the Government having not done so, the petitioner after approaching the authorities on various occasions was constrained to submit a representation on 24/1/2022 to the Commissioner and Secretary to the Government of Assam for regularising the hanging period of service of the petitioner from 19/1/2005 to 9/9/2005 and disbursing her outstanding arrear salary along with the consequential increment. The

respondent authorities having not ventilated the grievances of the petitioner, she is compelled again to approach this Court under Article 226 of the Constitution.

7. I have heard the learned counsel for the parties.

8. It appears from the perusal of the order dated 19/8/2005 itself in W.P.(C) No. 4324/2005 that this Court had directed that the petitioner should be treated as a subject teacher during this period and her salary has to be paid forthwith along with the arrear. The Director of Secondary Education had also in consequence thereof issued the communication dated 18/11/2005. However, the respondent authorities, more particularly the Education Department have not regularized the said hanging period of the petitioner from 19/1/2005 to 9/9/2005 and had also not paid the salary during this period although the petitioner under no circumstances can be said to be at fault. Under such circumstances, this Court in the interest of justice therefore disposes of the instant writ petition thereby directing the respondent No. 1 i.e. the Commissioner and Secretary to the Government of Assam, Education Department to regularize the services of the petitioner for the period from 19/1/2005 to 9/9/2005 and upon regularizing the said period, the said respondent shall also take appropriate steps for release of arrear salary during the said period. The said respondent besides is also directed to consider if the petitioner is entitled to consequential increment and if so, to pay the same to the petitioner.

7. The said exercise be completed within a period of 3 months from the date a certified copy of the instant order is served upon the Commissioner and Secretary to the Government of Assam, Education Department.

8. With the above, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant