

GAHC010044572022



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

Case No. : WP(C)/2395/2022

MD. NOUSHAD ALI AND 6 ORS
S/O. LT. ISMAIL ALI, VILL. DHAMDHAMA, P.O. NIZ DHAMDHAMA, DIST.
NALBARI, ASSAM.

2: NAGESH BARZA BARO

S/O. LT. AMIN CH. BARO
R/O. UTTARPARA
P.O. BAGANPARA
DIST. BAKSA
PIN-781344
ASSAM.

3: SONALI BRAHMA RAMCHIARY
D/O. DEBANDRA NATH
R/O. DAIMUGURI
FATASIL AMBARI
GUWAHATI-781025
ASSAM.

4: ANUP KALITA
S/O. LT. BHUPENDRA KALITA
VILL. MAZDIA
P.O. CHOOK BAZAR
NALBARI
ASSAM.

5: SYED ARIF HUSSAIN
S/O. LT. SYED MANIRUDDIN AHMED
R/O. AND P.O. BARPALAHA
P.S. BAIHATA
CHARIALI
DIST. KAMRUP
ASSAM-781121.

6: BOBITA BORAH
D/O. JAPNESWAR BORAH
R/O. VILL. NEW CENTRE
SOOTEA
DIST. BISWANATH
PIN-784175
ASSAM.

7: JADURAM KALITA
S/O. BALO KALITA
VILL. ADIALENGI
P.O. BALICHAPORI
DIST. MAJULI
PIN-785104
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECY. OF THE GOVT. OF ASSAM,
SECONDARY EDUCATION DEPTT., DISPUR, ASSAM, GUWAHATI-781006.

2:THE DIRECTOR OF SECONDARY EDUCATION

KAHILPARA
ASSAM
GUWAHATI-781019.

3:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR-781006
ASSAM

Advocate for the Petitioner : MR. U K NAIR
Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 06-06-2023

Heard Mr. B. Choudhury, learned counsel for the petitioners. Also heard Mr. B. Kaushik, learned standing counsel Secondary Education Department and Ms.

R.M. Baruah, learned standing counsel for the Finance Department .

2. The petitioners, in the present writ petition, were appointed as Lecturers in different colleges. The Cabinet took a decision on 28-02-2016, giving approval for regularization of the Lecturers, who were appointed before the colleges came under Deficit Grants-in-Aid and also received Government concurrence and subsequently provincialised under the Assam Junior Colleges (Provincialisation) Act, 2012. Consequent to such cabinet decision dated 28-02-2016, the Principal Secretary to the Government of Assam, Secondary Education Department, issued an Office Memorandum dated 02-03-2016, specifying the terms of regularization for Lecturers, who were appointed prior to 01-02-2001 in respect of 48 Junior Colleges and 29-11-2010 in respect of 05 Junior Colleges.

3. Similarly situated petitioners approached this Court by filing WP(C) No. 1051/2022. The said writ petition was disposed of by order dated 30-05-2022 with the following directions:

“4. In the judgment dated 17.11.2021 in WP(C) No. 3816/2021, it had been held that the Commissioner and Secretary to the Government of Assam in the Secondary Education Department being an authority lower than the Cabinet, could not have taken a decision which was in conflict with the decision of the Cabinet and accordingly, the said notification was interfered. The said writ petition was in respect of 42 of the Lecturers of the Junior Colleges, whose names were included in the Office Memorandum dated 02.03.2016.

This writ petition is by the other 11 Lecturers, whose names are also included in the said Office Memorandum dated 02.03.2016.

In view of the similarity of the situation in respect of the petitioners in WP(C) No. 3816/2021 and the present writ petitioners, we also allow this writ petition by providing that the regularization of the present petitioners would be governed by the Office Memorandum dated 02.03.2016 and the respondent authorities may work upon it and bring the process to its logical end. In bringing the process to its logical end, the respondents to also maintain the continuity in the payment of the service benefits to the present petitioners while

bringing the process to its logical end as per the Office Memorandum dated 02.03.2016.

The writ petition is allowed to the extent as indicated above.”

4. The petitioners, in the present writ petition, claims parity with the petitioners in WP(C) No. 1051/2022.

5. Mr. B. Kaushik, learned standing counsel, Secondary Education Department as well as Ms. R.M. Baruah, learned standing counsel for the Finance Department also submit that the petitioners are covered by the order dated 30-05-2022, passed in WP(C) No. 1051/2022.

6. Accordingly, on consensus, this writ petition is disposed of directing the respondents that the case of the petitioners herein shall be covered by the order dated 30-05-2022, passed in WP(C) No. 1051/2022.

7. The respondents are directed to act according to the directions given in the order dated 30-05-2022, passed in WP(C) No. 1051/2022, in respect of the present petitioners.

8. It is made clear that the regularization of the petitioners shall be done in terms of the office memorandum dated 02-03-2016.

9. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant