

GAHC010059062023



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

Case No. : WP(C)/1539/2023

SATISH SEN DUTTA
SON OF UDAY CHANDRA DUTTA,
RESIDENT OF VILLAGE- BARSILA, P.O.- SOLMARA, DISTRICT- NALBARI,
PIN- 718338.

VERSUS

THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM AND 4
ORS
SECONDARY EDUCATION DEPARTMENT, DISPUR.

2:DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA.

3:INSPECTOR OF SCHOOLS
NDC
NALBARI.

4:THE PRINCIPAL
SOLMARA H.S. SCHOOL
SOLMARA.

5:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR.

6:THE TREASURY OFFICER
BELSOR SUB TREASUR

Advocate for the Petitioner : MR D CHOUDHURY

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

O R D E R

13.09.2023.

Heard Mr. D. Choudhury, learned counsel for the petitioner. Also heard Ms. D. Musahary, learned standing counsel appearing for the Secondary Education Department.

2. This Writ Petition is filed by the petitioner praying for arrear salary which according to him he is entitled to because of revision of his pay during his service rendered as Assistant Teacher in Solmara Government M.E. School, which was subsequently merged with Solmara Higher Secondary School.

3. Mr. D. Choudhury, learned counsel for the petitioner submits that the petitioner was appointed as an Assistant Teacher in Solmara Government M.E. School in the year 1978. Subsequently the said M.E. School stood merged with Solmara Higher Secondary School by way of amalgamation. The pay scale of the petitioner was revised in 1981, w.e.f. 01.01.1981. Subsequently, his service was also upgraded to the post of Graduate Teacher w.e.f. 28.03.1994. After the upgradation, his pay scale was fixed at Rs.1375-3375 per month w.e.f. 28.03.1994. The said pay was again revised in 1996 and in 2016. His revised pay was re-fixed as per the Notification vide No.FPC.42/2018/3, dated 09.03.2019, issued by the Department of Finance, Government of Assam. As per the said notification, his initial pay with one increment was fixed at Rs.60,500/-, as on 01.07.2016. The amount so increased as per the re-fixation

notification dated 09.03.2019, has not been calculated and assessed during the service tenure of the petitioner. He ultimately superannuated from service on 31.12.2019.

4. It is submitted by the learned counsel for the petitioner that the arrear amount which was increased in the pay scale of the petitioner as per the MACPS Scheme was not assessed and consequently the amount payable to him is not released till his retirement. Even after his retirement, in spite of requests made by the petitioner, the amount has not been finalized and released.

5. The petitioner thereafter submitted his representation before the authorities concerned and as per the particulars furnished by the Principal of Solmara Higher Secondary School, the entitlement of the petitioner has been assessed and shown as Rs.2,73,276/- (Rupees two lakhs seventy three thousands two hundred and seventy six) only and non-drawal certificate by the Treasury Officer has also been issued but in spite of that, the amount as reflected and held to be payable to the petitioner, has not been released. Being aggrieved, the petitioner has filed the present Writ Petition.

6. Notice in the matter was issued on 20.03.2023.

7. Ms. D. Musahary, learned standing counsel appearing for the Secondary Education Department, Assam has submitted the communication No.DSE/ACB/CC/30/2023/57, dated 27.07.2023, whereby the Director of Secondary Education Department, Assam has submitted proposal for release of arrear salary (fixation of pay & MACPS arrear) in respect of the petitioner, who is a retired Assistant Teacher of Solmara Higher Secondary School. The said proposal is stated to have been forwarded to the office of the Secretary to the Government of Assam, Department of School Education.

8. A perusal of the said communication, which is before the Court, reveals that a proposal has been furnished for releasing the amount of Rs.2,73,276/- (Rupees two lakhs seventy three thousands two hundred and seventy six) only, as arrear salary (fixation of pay & MACPS arrear) in respect of the petitioner. The proposal also encloses the non-drawal certificate submitted by the Principal, which is duly certified by the Treasury Officer, Belsor. The head of account to which the expenditure is debitable is also mentioned in the said communication.

9. The communication as forwarded from the office of the Director of Secondary Education Department, Assam reads as under:

GOVT. OF ASSAM.
OFFICE OF THE DIRECTOR OF SECONDARY EXUCATION ASSM
KAHILIPARA, GUWAHATI-19.

NO.DSE/ACB/CC/30/2023/57 Dated Kahilipara, the 27th July/2023.

From : Ms. Mamta Hojai, AES
Director of Secondary Education, Assam,
Kahilipara, Guwahati-19

To The Secretary to the Govt. of Assam,
Department of School Education,
Dispur, Guwahati-6/

Sub :- Submission of proposal for release of arrear salary (fixation of pay & MACPS) arrear in respect of Sri Satish Sen Dutta Retd. A.T. of Solmara H.S. School, under Nalbari District in compliance of Hon'ble Guwahati High Court order dt.20/03/2023, passed in W.P.(C) No.1539/2023.

Sir,

In inviting a reference to the subject cited above, I have the honour to state that an amount of Rs.2,73,276/- (Rupees two lakhs seventy three thousands two hundred and seventy six) only is required for release of arrear in respect of Sri Satish Sen Dutta Retd. A.T. of Solmara H.S. School, under Nalbari District for the period w.e.f. 01/04/2016 to 31/12/2019 & 01/01/2017 to

31/12/2019, as received from the Inspector of Schools, N.D.C. Nalbari vide his letter No.IS/NDC/Arrear/Allot/01/2013/1136 dtd.22/06/2023 in compliance of Hon'ble Guwahati High Court order dt.20/03/2023, passed in W.P.(C) No.1539/2023.

In this context, a Non-drawal Certificate submitted by the Principal, Solmara H.S. School, Solmara, duly countersigned by the Treasury Officer, Belsor is enclosed herein.

I would therefore, request that, Govt. may pleased to accord necessary sanction for an amount of Rs.2,73,276/- (Rupees two lakhs seventy three thousands two hundred and seventy six) only for arrear salary (fixation of pay & MACPS) arrear in respect of Sri Satish Sen Dutta Retd. A.T. of Solmara H.S. School, under Nalbari District out of the budget provision of Rs.500.00 lakh for the financial year 2023-2024.

The expenditure is debitable to the Head of Account "2202-02-110-0269-000-01-12-(E.E.Estt) for the year, 2023-2024.

An early Govt. sanction is highly solicited.

Your's faithfully,

Sd/-

Director,

Secondary Education, Assam,
Kahilipara, Guwahati-19

10. Having heard the learned counsel for the parties, it is seen from the above that a proposal has already been forwarded to the Secretary to the Government of Assam, Department of School Education and the learned counsel for the respondent fairly submits that the matter is under active consideration and necessary sanction order is likely to be issued within a short date.

11. Taking all the submissions made before this Court into consideration and upon perusal of the record, this Court consider it appropriate to close the writ petition at this stage, directing the Secretary to the Government of Assam, Department of School Education, Dispur to forthwith pass necessary order, sanctioning the proposal furnished by the Director of Secondary Education Department, Assam, as per provision of law. Once the sanction is received, the

necessary payment required to be paid to the petitioner, should be released without further delay.

12. With the above observations, the writ petition stands closed. The directions contained be complied with within a period of 60 (sixty) days from the date of receipt of the certified copy of this order.

13. The writ petition stands disposed of.

JUDGE

Comparing Assistant