

GAHC010070752019



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

**Case No. : WA/115/2019**

SHRI PADMA DHAR DAS  
S/O- SRI SONA RAM DAS,  
R/O- VILL. AND P.O. RAMPUR, DIST.- NALBARI, ASSAM, PIN- 781312.

VERSUS

THE STATE OF ASSAM AND 2 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR, GUWAHATI-  
781019.

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

3:THE INSPECTOR OF SCHOOLS

NALBARI DISTRICT CIRCLE  
NALBARI  
ASSAM

**Advocate for the Petitioner : MR. M K CHOUDHURY**

**Advocate for the Respondent : SC, SEC. EDU.**

Linked Case : WA/153/2019

DHIREN CH. MEDHI AND 4 ORS.  
S/O- LATE GOHIN CH. MEDHI  
R/O- VILL. AND P.O. ADABARI  
P.S. MUKALMUWA  
DIST.- NALBARI  
ASSAM  
PIN- 781347  
WORKING AS ASSTT. TEACHER  
PUB-BARKHETRI HIGH SCHOOL  
LOHARKATHA  
NALBARI.

2: KHANINDRA KR. BARMAN  
S/O- NARENDRA NATH BARMAN  
R/O- VILL. AND P.O. BARTALA  
P.S. MUKALMUWA  
DIST.- NALBARI  
PIN- 781347  
WORKING AS ASSTT. TEACHER  
BARTALA HIGH SCHOOL  
BARTALA.

3: HEMANTA DAS  
S/O- MADHU RAM DAS  
R/O- 3 NO. BARTALA  
P.O. BARTALA  
P.S. MUKALMUWA  
DIST.- NALBARI  
PIN- 781347  
WORKING AS ASSTT. TEACHER BARNIBARIMILAN HIGH SCHOOL  
BARNIBARI.

4: MD. PIAR ALI  
S/O- LATE JAYA ALI  
R/O- VILL. AND P.O. NARAYANPUR  
P.S. MUKALMUWA  
DIST.- NALBARI  
ASSAM  
PIN- 781347  
WORKING AS ASSTT. TEACHER. PUB- BARKHETRI HIGH SCHOOL  
LOHARKATHA  
NALBARI.

5: HEMANTA KALITA  
S/O- LATE ANANDI KALITA  
R/O- VILL. AND P.O. LAWPARA  
P.S. MUKALMUWA  
DIST.- NALBARI

ASSAM  
PIN- 781347  
WORKING AS ASSTT. TEACHER  
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NALBARI  
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PIN- 781347.

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Advocate for : MR. M K CHOUDHURY  
Advocate for : SC  
SEC. EDU. appearing for THE STATE OF ASSAM AND 2 ORS.

**BEFORE**  
**HON'BLE THE CHIEF JUSTICE**  
**THE HON'BLE MR. JUSTICE SUMAN SHYAM**

**23/03/2023**

Both these intra-court appeals are directed against the judgement and orders both dated 28/02/2019 passed by the learned Single Judge in WP(C) 6115/2015 and WP(C) 4796/2015, declining the prayer made by the writ petitioners/appellants for payment of arrear salaries for the period from 21/05/2012 till 18/01/2014.

It appears that the services of the appellants as Assistant Teachers were earlier terminated by the Inspector of Schools. The orders of termination from service were put to challenge in WP(C) 3118/2012 and WP(C) 3114/2012 filed by the respective appellants as writ petitioners. By the common judgement and order dated 01/08/2013 passed by this Court in WP(C) 3118/2012 & WP(C) 3114/2012 and batch of writ petitions, similar orders from termination of service of the appellants as well as other similarly situated candidates were set aside by the learned Single Judge and liberty was granted to the department to proceed against them afresh after serving show cause notices. It appears that thereafter, a *de-novo* proceeding was held, where-after, the appellants as well as the other similarly situated candidates were reinstated in service with all consequential benefits. Accordingly, the appellants had prayed for payment of salary for the period from 21/05/2012 to 18/01/2014 by treating that period as deemed to be in service. However, when their request for payment of arrear salary was declined, the appellants, as writ petitioners, had approached this Court once again by filing WP(C) 6115/2015 & WP(C) 4795/2015, which were disposed by the impugned judgement and order dated 28/02/2019.

Mr. Barkataki submits that by the judgement and order dated 23/09/2012 passed in *Writ Appeal No. 211/2019 (Dipali Barman Vs. State of Assam and others)*, preferred by another similarly situated candidate assailing the order dated 28/02/2019 passed by the learned Single Judge in WP(C) 7032/2015, declining the prayer for release of arrear salary, the writ appeal was disposed of by making the following observations :-

“16.        *Considering the aforesaid, this Court is of the opinion that the claim raised by the appellant before the learned Single Judge has been wrongly declined. The learned Single Judge has also committed an error in coming to the conclusion that the appellant had accepted the order. The impugned order passed by the learned Single Judge is hereby quashed and set aside. The appeal deserves to be allowed and is hereby allowed.*

17.        *The Director of Secondary Education, Assam is directed to take necessary steps to release the arrears of salary of the appellant and process the same for the period from*

*21.05.2012 to 18.01.2014 and after quantifying the same, make such payment of arrears of salary to the appellant within a period of 3(three) months from the date of receipt of the certified copy of this judgment & order.”*

According to Mr. Barkataki, the case of the appellants is squarely covered by the judgement and order dated 23/09/2022 and, therefore, these appeals can also be disposed of accordingly.

Mr. R. Mazumdar, learned departmental counsel has also fairly submitted that the cases of the appellants are covered by the aforesaid judgement and order dated 23/09/2022.

In view of the above, both these Writ Appeals are disposed of in the light of the observations made in the order dated 23/09/2022 by providing that the arrear salary of the appellants for the period from 21/05/2012 till 18/01/2014 be paid to them within a period of 3 (three) months from the date of receipt of a certified copy of this order.

Both the writ appeals stand allowed.

**JUDGE**

**CHIEF JUSTICE**

*sukhamay*

**Comparing Assistant**