

GAHC010076742021



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

Case No. : WA/365/2022

MD. ARJU ALI
S/O- LATE MD. ABED ALI, R/O- GARIGAON, P.O. GARIGAON, GUWAHATI-
12, P.S. JALUKBARI, DIST.- KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS. E
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE INSPECTOR OF SCHOOLS

KAMRUP DISTRICT CIRCLE
DIST.- KAMRUP(M)
PANBAZAR
GUWAHATI- 781001.

4:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI- 781006

Advocate for the Petitioner : K U AHMED

Advocate for the Respondent : SC, SEC. EDU.

Linked Case : I.A.(Civil)/1208/2021

MD. ARJU ALI
S/O- LATE MD. ABED ALI
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Advocates for the appellants : Mr. M. A. Sheikh

Advocates for the respondents : Mr. R. Mazumdar, S.C. Education

:::BEFORE:::
HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 27.04.2023
Date of Judgment & Order : 12.06.2023

JUDGMENT & ORDER (CAV)

(M. Thakuria, J.)

Heard Mr. M. A. Sheikh, learned counsel for the appellant/writ petitioner.
Also heard Mr. R. Mazumdar, learned Standing Counsel, Education Department.

2. This intra-court appeal, under Article 226 of the Constitution of India *read with* Rule 2(2) of Chapter V. A of the Gauhati High Court Rules, has been preferred against the judgment and order dated 09.11.2017, passed by the learned Single Judge in WP(C) No. 3723/2012 and order dated 31.03.2021, passed in I.A.(C)/2232/2020, arisen out of WP(C)/3723/2012.

3. The case of the appellant/writ petitioner is that he was serving in a permanent post of Assistant Teacher in Jalukbari Girls' High School and he was appointed, vide order dated 05.06.1995, under the Memo No. PC/SEC/58/92/54, issued by the Director of Secondary Education, Assam, Kahilipara, Guwahati. The post of subject teacher in English of All Assam Miri Higher Secondary School, North Lakhimpur, was created vide the Government Letter No. EPG.567/91/113, dated 16.11.1991, and the same was withdrawn and allotted

to Jalukbari Higher Secondary School, Kamrup, Guwahati. But, without any notice and assigning any reason, the present appellant/writ petitioner was appointed temporarily as a subject teacher in Economics against the allotted post in Jalukbari Higher Secondary School, Kamrup, Guwahati, in the scale of pay of Rs. 1785-4200 P.M. plus other allowances as admissible under the Rules. As he was appointed as a subject teacher in Economics at Jalukbari Higher Secondary School, he resigned from the post of Assistant Teacher of Jalukbari Girls' High School and joined as a subject teacher of Economics in the said Higher Secondary School and was drawing his salary regularly for 1 (one) year till May, 1996 and thereafter his salary was held up due to non-receipt of retention order from the Government of Assam.

4. Due to non-payment of the salaries, the appellant/writ petitioner, after a long gap of 10 years, filed a writ petition before this Court with a prayer for issuance of writ of mandamus and/or other appropriate writ or order or direction to the respondent authorities to regularize his service and to issue necessary retention order against his post and also to release the arrear salaries since June, 1996 and further to pay his current salaries regularly. The said writ petition was registered as WP(C) No. 5284/2006 and notices were issued to the respondent authorities. Accordingly, the respondents' side filed their affidavit-in-opposition, wherein, it was specifically stated that the petitioner joined as a subject teacher in Economics at Jalukbari Higher Secondary School against newly allotted post of subject teacher in English, which was subsequently converted to Economics. The said post was lying unutilized at All Assam Miri Higher Secondary School, North Lakhimpur. It is also admitted that the appellant/writ petitioner was receiving salary regularly till May, 1996, but the

salary of the appellant/writ petitioner could not be paid thereafter as there was no retention order against the said post. The concerned post was created by excess category and hence, it was not possible to release the salary of the petitioner without any retention order. Subsequently, another affidavit-in-opposition was filed by the respondent authorities stating that the appellant/writ petitioner was appointed against non-existent post. He was not formally terminated from the service as the matter was referred to the government.

5. The said writ petition was, however, dismissed by the learned Single Judge vide judgment and order dated 18.12.2006 and thereafter, challenging the said judgment and order, the appellant/writ petitioner filed a writ appeal before this Court, which was registered as WA No. 69/2007, wherein the respondent authorities filed their affidavit-in-opposition on various dates. The said writ appeal was disposed of on 17.03.2009 directing the respondent authorities to consider the prayer of the appellant by extending the same benefits to the appellant which have already been extended to the other persons who are similarly situated with the appellant/writ petitioner and further directed the concerned respondent authorities to complete the exercise within a period of 3 (three) months from the date of said judgment and order. The appellant/writ petitioner, accordingly, approached the concerned authority time and again and requested to regularize his service on the basis of the said judgment and order and also requested to release his arrear salaries from June, 1996. For non compliance of the judgment and order passed in the said writ appeal, the appellant/petitioner filed a contempt case, which was numbered as Contempt Case (C) No. 24/2011, against the respondent authorities. After receiving notice in the said contempt case, during the pendency of the case, the respondent No.

2 passed an order on 09.06.2011, whereby the appellant/writ petitioner was adjusted with the prospective effect as subject teacher in Economics at Guwahati Night Higher Secondary School, Paltan Bazar.

6. In response to the said order of adjustment, the appellant/writ petitioner resigned from Jalukbari Higher Secondary School on 09.06.2011 and joined in his new posting at Guwahati Night Higher Secondary School, Paltan Bazar, on 10.06.2011 and till date, he is performing his duty as a subject teacher in Economics in the said Night Higher Secondary School. But, even after his joining in the said School as a subject teacher of Economics, his arrear salaries, w.e.f. 01.06.1996 to 09.06.2011, have not been released, though the same benefits were already granted to the persons, namely, Mrs. Gitanjali Dutta, S/T (Economics) of Moran H.S. School and Shri Prafulla Moha, S/T (Economics) of Betbari H.S. School, who are similarly situated with the appellant/writ petitioner. The appellant/writ petitioner also collected the information regarding the salaries and the appointments of the above mentioned persons and thereafter, he filed another writ petition before this Court, which was numbered as WP(C) No. 3723/2021, with a prayer to make payment of arrear salaries for the aforesaid period and the learned Single Judge was pleased to issue notice to the respondents and accordingly, they filed their affidavit-in-opposition and thereafter, vide judgment and order dated 09.11.2017, the learned Single Judge was pleased to dismiss the said writ petition.

7. It was the contention of the appellant/writ petitioner before the learned Single Judge that the respondent authorities violated Article 14 of the Constitution of India by not paying him the arrear salaries and also did not

follow the order of this Court passed in WA/69/2007. Due to non-payment of the salaries for the aforesaid period, the life and livelihood of the petitioner was seriously affected and thus, the respondent authorities also violated Articles 19 and 21 of the Constitution of India as well as the principle of natural justice. The petitioner was appointed as subject teacher in Economics against a permanent and sanctioned post with retention up to a certain period, but the respondent authorities failed to extend the retention period of the petitioner. The sanction post, under which the petitioner was appointed, was withdrawn from All Assam Miri Higher Secondary School, North Lakhimpur, and he was appointed in the post of English subject teacher in Jalukbari Higher Secondary School and which was subsequently converted into Economics subject teacher and after conversion of the said post, he was appointed accordingly. There was a 2nd post of Economics in Jalukbari Higher Secondary School which was withdrawn along with the incumbent and thus, there was a vacancy of the 2nd post of subject teacher in Economics.

8. The respondent authorities, after expiry of the retention period, did not remove the petitioner from service and he was discharging his duty without any blemish and hence, the petitioner deserves retention as well as arrears and the current salaries. This Court had already granted benefits to some other similarly situated persons which was not considered by the respondent authorities who also failed to consider the direction of this Court in a very arbitrary and unfair manner.

9. The respondent authorities did not file any affidavit-in-opposition against the claim of the petitioner, however the learned Standing Counsel for the

respondent/Department contended *inter alia* that the petitioner had not challenged the order of regularization, dated 09.06.2011, which was issued strictly in terms of the order dated 17.03.2009, passed by the Division Bench of this Court. Further it was submitted by the learned Standing Counsel for the respondent/Department that the payment of the arrear salary was earlier rejected by the learned Single Judge and the arrear salary was also not granted by the Division Bench of this Court and only relief granted in the writ appeal was to regularize the service of the appellant/ petitioner.

10. So the points before the learned Single Judge were as to (i) whether the petitioner is entitled to be regularized in his service as well as arrear salaries for the aforesaid period; (ii) whether the petitioner was appointed against a sanctioned post where he rendered service with effect from 1st June 1996 till 9th June 2011; and (iii) whether the Division Bench of this Court passed the order for consideration of the claim of the petitioner for regularization and whether there was any direction in regards to payment of the arrear salary in the judgment and order of the Division Bench dated 17.03.2009.

11. The learned Single Judge, after hearing both sides, was pleased to dismiss the writ petition with a view that there was no direction for regularization of the services of the appellant/ petitioner for the previous period, i.e. 01.06.1996 to 09.06.2011, and the order of the Division Bench was confined only for the regularization of service of the appellant/petitioner, which has been already carried out by the respondent authorities. At the same time, the learned Single Judge also considered that the petitioner has failed to establish that he was serving against a sanctioned post w.e.f. 01.06.1996 to 09.06.2011 and

accordingly, the question of issuing mandamus directing the respondent authorities to make payment of the arrear salaries and allowances does not arise at all.

12. On being aggrieved and dissatisfied with the judgment and order passed by the learned Single Judge, the present intra-court appeal has been filed on the ground that the learned Single Judge completely misappreciated the facts and laws involved in this case and also wrongly held that the Division Bench only considered the claim for regularization and the arrear salaries was declined. The learned Single Judge also wrongly held that the petitioner could not establish that he was serving against a sanctioned post w.e.f 01.06.1996 to 09.06.2011 and had passed the judgment and order without going through the relevant documents and records of the case. The learned Single Judge also failed to consider that the respondent authorities had utilized his continuous service w.e.f 01.06.1996 to 09.06.2011. The respondent authorities never removed the petitioner from his service in spite of no retention order and utilized the continuous service rendered by the petitioner. However, it has been held by the learned Single Judge that the order passed in WP(C)/5284/2006 remained undisputed and also held that the order of learned Single Judge merged in the judgment of Division Bench passed in WA No. 69/2007.

13. On the above stated grounds, the present appeal has been filed seeking a direction from this Court for payment of arrear salaries w.e.f. 01.06.1996 till 09.06.2011 with a further direction to regularize the service of the appellant/petitioner for the said period as the subject teacher in Economics at Jalukbari Higher Secondary School.

14. It is submitted by the learned counsel, Mr. M. A. Sheikh, appearing on behalf of the appellant/writ petitioner, that the appellant/petitioner, after having been appointed vide order dated 05.06.1995 under the Memo No. PC/SEC/58/92/54, issued by the Director of Secondary Education, Assam, Kahilipara, Guwahati, was initially serving in a permanent post of Assistant Teacher in Jalukbari Girls' High School. Thereafter he was appointed on a temporary basis as a subject teacher in Economics at Jalukbari Higher Secondary School, Guwahati, on being withdrawn and allotted from All Assam Miri Higher Secondary School, North Lakhimpur, as the subject teacher in English at the said School remained unutilized. As the appellant/writ petitioner was appointed as a subject teacher in Economics at Jalukbari Higher Secondary School, Guwahati, he resigned from the post of Assistant Teacher of Jalukbari Girls' High School and joined as a subject teacher in Economics in the said Higher Secondary School and was regularly drawing his salary till May 1996 as per the government norms along with the allowances as admissible under the Rules. But, thereafter, he could not draw the salary due to non-receipt of retention order from the Government of Assam though he was serving in the said School continuously without any blemish and the respondent authorities also utilized his service in the said school since his date of appointment.

15. It is further submitted by the learned counsel for the appellant/writ petitioner that in spite of non-retention of his post, the school authority of the respondent/Department did not terminate or remove him from his service and he was rendering his service in the said school. Being aggrieved of denial of his lawful entitlements, he filed a writ petition before this Court, which was

registered as WP(C)/5284/2006, for regularization of his service and also for payment of current as well as arrear salaries. However, the learned Single Judge dismissed the said writ petition without considering the plea taken by the respondent authorities in their affidavit-in-opposition, wherein, they specifically pleaded that the appellant/writ petitioner joined as a subject teacher in Economics at Jalukbari Higher Secondary School against newly allotted post of subject teacher in English which was subsequently converted to Economics. The said post of subject teacher was withdrawn from All Assam Miri Higher Secondary School, North Lakhimpur, as the post remained unutilized for many years. Further, in the said writ petition, though the respondent authorities filed additional affidavit-in-opposition stating that the petitioner was appointed against a non-existing post, yet he was not terminated from his service as the matter was referred to the Government.

16. The learned counsel for the appellant/writ petitioner further submitted that the appellant/petitioner challenged the order of the learned Single Judge, dated 18.11.2006, in the writ appeal, being WA/69/2007, wherein, the respondent authorities were directed to consider the prayer of the present appellant/petitioner and asked the authorities to extend the same benefits as the other similarly situated persons and also to regularize his service. But the respondent authorities did not comply with the direction given in the said order and for which, contempt petition was filed by the present appellant/petitioner and during the pendency of the said contempt petition, the service of the present appellant/petitioner was adjusted as subject teacher in Economics at Guwahati Night Higher Secondary School, Paltan Bazar. The appellant, accordingly, resigned from the Jalukbari Higher Secondary School on 09.06.2011 and joined

at his new place of posting at Guwahati Night Higher Secondary School, Paltan Bazar, on 10.06.2011 as a subject teacher in Economics. But, in spite of regularization of his service in the year 2011, the respondent authorities have not released his arrear salaries and for which, he had to approach this Court again with a writ petition, however his prayer for releasing the arrear salaries was denied by the learned Single Judge. Thus, in spite of rendering continuous services in the department, the appellant/petitioner has been illegally deprived from getting his arrear salary for the period since w.e.f. 01.06.1996 to 09.06.2011 and hence this writ appeal.

17. Per contra, the learned Standing Counsel for the Education Department, Mr. R. Mazumdar, has submitted that in the WA No. 69/2007, the Division Bench of this Court had passed the order directing the respondent authorities to regularize the service of the appellant/petitioner and accordingly, in pursuant to that order, the respondent authority has already regularized the service of the present appellant/petitioner by adjusting him at Guwahati Night Higher Secondary School, Paltan Bazar, against the post of subject teacher in Economics vide Government Notification. The earlier writ petition, which was filed by the present appellant/petitioner for release of arrear salaries, was rejected by the learned Single Judge and there was no order for payment of the arrear salaries in the judgment and order passed the Division Bench of this Court and only relief granted to the petitioner was for his regularization of the service, which was accordingly complied with by the respondent authority. As the appellant/petitioner was serving against a non-existent post and hence, the question of payment of the arrear salaries does not arise at all.

18. In reply, the learned counsel appearing on behalf of the appellant has submitted that from the available documents as well as the Government Notification and also from the appointment order of the appellant, it is evident that initially the appellant/petitioner was appointed against a permanent post of Assistant Teacher in Jalukbari Girls' Higher Secondary School, but, subsequently, he was appointed as a subject teacher in Economics after withdrawal of the post from All Assam Miri Higher Secondary School, North Lakhimpur, and he was regularly getting his salaries along with all the allowances as per the Government Rules. So, the appointment of the appellant/ petitioner cannot be considered as the appointment against non-existent post as he was initially appointed as an Assistant Teacher against the permanent post and subsequently, he joined in the said school as a subject teacher in Economics only after the withdrawal of the post of subject teacher in Economics from All Assam Miri Higher Secondary School, North Lakhimpur, which was created vide Government Notification No. EPG.567/91/113, dated 16.11.1991.

19. On the other hand, the learned Standing Counsel for the Education Department has submitted that in pursuant to the order passed in WA No. 69/2007, the respondent authorities had already regularized the service of the appellant/petitioner against the vacant post at Guwahati Night Higher Secondary School, Paltan Bazar, which arose on 01.12.2010 on superannuation of one Ms. Maini Mahanta and his service was regularized since 09.06.2011 and a Notification was also issued to that effect. But, the appellant/petitioner never challenged the said order of regularization which had a prospective effect from 09.06.2011. More so, the Division Bench of this Court did not consider the prayer for release of arrear salaries nor there was any direction to the

respondent authority for release of the arrear salaries and hence, the relief sought by the appellant/petitioner for release of the arrear salary is barred by the principle of *res judicata*.

20. In this regard, the learned counsel for the appellant/petitioner submitted that the Division Bench had directed the respondent authorities to extend the same benefit to the appellant/petitioner as the other similarly situated teachers, which not only includes the claim of regularization of service but would also include the payment of arrear salaries. But, in spite of the order of the Division Bench, the respondent authorities did not release the arrear salaries of the present appellant/petitioner and the learned Single Judge failed to consider the said fact and dismissed the prayer for release of arrear salaries without appreciating the entire facts of this case. The learned Single Judge only considered that the order of the Division Bench was confined only for the regularization of the service of the appellant/petitioner and there cannot be any ground for release of the arrear salaries to the present appellant/petitioner and also it was considered that the appellant/petitioner was rendering his service w.e.f. June 1996 against a non-sanctioned post and for which, his prayer for release of the arrear salaries was rejected by the learned Single Judge.

21. We have given our anxious considerations to the rival submissions made by the learned counsels appearing for the parties and also perused the judgment passed by the learned Single Judge as well as the judgment of the Division Bench and the annexures filed along with the present appeal.

22. It is seen that since the date of appointment as an Assistant Teacher

against the permanent post in Jalukbari Higher Secondary School, the present appellant/petitioner is rendering his continuous service till date. After withdrawal of the post of teacher in Economics from the All Assam Miri Higher Secondary School, North Lakhimpur, as the same remained unutilized, he was appointed as a subject teacher in Economics in Jalukbari Higher Secondary School and was drawing his salary as per Government norms along with the allowances admissible as per Government Rules. The said fact being not disputed by the respondent authorities in their affidavits and hence, his service for the said period cannot be considered against a non-existing post. However, the only ground on which his salary could not be released was due to non-receipt of retention order against the said post since 1996. It is also a fact that the Division Bench had passed the order directing the respondent authority to regularize his service immediately within 3 (three) months from the date of order considering his long experience and accordingly, in pursuant to the said order of Division Bench, that too after filing of the contempt petition by the present appellant/petitioner, the service of the present appellant/petitioner was regularized in the year 2011 and he was adjusted against a vacant post at Guwahati Night Higher Secondary School, Paltan Bazar. Though the order passed by the Division Bench is silent regarding the release of his arrear salaries, yet the respondent authority was specifically directed to consider the prayer of the present appellant/petitioner and also to give the same benefit as given to the similarly situated other 31 teachers. Merely because there was no specific direction for releasing the arrear salaries of the present appellant/petitioner, it cannot be presumed that the Division Bench had rejected the prayer for release of the arrear salaries of the present appellant/petitioner when the respondent authorities were directed to give the same benefit to the

present appellant/petitioner as given to the other teachers who are similarly situated with the present appellant/petitioner. It is also not disputed that the appellant/petitioner is rendering continuous service to the respondent department and in spite of non-receipt of his retention order, he was neither terminated nor removed from his service, rather the appellant/petitioner had continuously discharged his duty despite non-receipt of salary for long 13 years. Further, if the other similarly situated persons have already got the same service benefits, the present appellant/petitioner should not be deprived from getting his arrear salaries when the respondent authorities have utilized his long 13 years service which he rendered.

23. It was the respondent, who transferred the appellant from the regular permanent post of Assistant Teacher in Jalukbari Girls' High School to the post of subject teacher in Jalubari Higher Secondary School (withdrawn from all Assam Miri Higher Secondary School, North Lakhimpur). The subsequent appointment was neither illegal nor irregular and the appellant had render continuous service. The respondents cannot shrug off their responsibility under the veil of lack of retention. The appellant is entitled for salary for the entire period of services rendered. One who avails the service has to pay for the service availed. Equitable justice demands the prayer of the appellant being allowed.

24. When services have been rendered and received by the State Government without accusing the person, rendering such service, that his appointment even to his knowledge, was illegal, it would not be just and fair for the State not to pay wages or salary of such illegal appointee for the period during which service

was rendered by such appointee. The State Government, as a model employer, cannot, therefore, be allowed to withhold the wages or salary of the petitioner, cannot, therefore, be allowed to withhold salary of the petitioner, when his service has been utilized without accusing him of having obtained the appointment by playing fraud. Thus, there is no justification for the State not to pay the dues of the petitioner. Reference in this regard is made to paragraph No. 9 of the order dated 27.11.2006 of the Division Bench of this High Court in **W.A. 89 of 1997**, reported in **2007 (1) GLT 409**, wherein it was observed:-

“9. While considering the above aspect of the case, it needs to be pointed out that while it has been the case of the State appellants that the appointments of the members of the petitioner-association were illegal, it has not been the case of the appellants that it was within the knowledge of the members of the petitioner-association that their appointments were against non-sanctioned or non-existent posts. When services have been rendered and received by the State Government without accusing the person, rendering such service, that their appointments, even to their own knowledge, were illegal, it would not be just and fair for the State not to pay the wages or salary of such an illegal appointee for the period during which service was rendered by such an appointee. The State Government, as a model employer, cannot, therefore, be allowed to withhold the wages or salary of the members of the petitioner-association, when their services have been utilized without accusing them of their having obtained the appointments by playing fraud. Withholding of salary, in a case of present nature, would make the members of the petitioner-association victims of forced labour by a model employer. Viewed, thus, we are clearly of the opinion that there is no justification for the State Government not to pay the dues of the members of the petitioner-association for the period during which they had served the Directorate, in question, particularly, when the said Directorate is a part of the State Government.”

25. Finally, in respect of argument raised by the State on *res-judicata*, the High Court in the earlier litigation has not denied the claim of the arrear pay though remain silent specifically on arrear pay but directed the State respondents to extend the same benefit to the petitioner (appellant in W.A. No.

69/2007) as the other similarly situated teachers. Even though there is no specific direction of payment of arrear salary would not make any difference in this case, for the facts already discussed above. It does not mean that merely a point has not taken for decision by the Court, it should, therefore, not be decided at any time, were this assumption true, the law would have remain static and would have never advanced. The whole process of judicial interpretation lies in extending or applying by analogy the ratio decidendi of an earlier case to a subsequent case which differs from it in certain essentials, so as to make the principles laid down in the earlier case fit in the new set of circumstances. In this regard reference is made to paragraph No. 66 of order dated 06.04.1986 of the Supreme Court in **Civil Appeal No. 4412 of 1985**, reported in **(1986) 3 SCC 156**, which reads as under:-

“Does this, therefore, make any difference? There is a basic fallacy vitiating the above submission. That fallacy lies in the assumption which that submission makes that merely because a point has not fallen for decision by the Court, it should, therefore, not be decided at any time. Were this assumption true, the law would have remained static and would have never advanced. The whole process of judicial interpretation lies in extending or applying by analogy the ratio decidendi of an earlier case to a subsequent case which differs from it in certain essentials, so as to make the principle laid down in the earlier case fit in with the new set of circumstances. The sequitur of the above assumption would be that the Court should tell the suitor that there is no precedent governing his case and, therefore, it cannot give him any relief. This would be to do gross injustice. Had this not been done, the law would have never advanced. For instance, had Rylands v. Fletcher, [1868] L.R. 3 H.L. 330 not been decided in the way in which it was, an owner or occupier of land could with impunity have brought and kept on his land anything likely to do mischief if it escaped and would have himself escaped all liability for the damage caused by such escape if he had not been negligent. Similarly, but for Donoghue v. Stevenson, [1932] A.C. 562 manufacturers would have been immune from liability to the ultimate consumers and users of their products.”

26. The equitable doctrine as seen from the essential ingredients applies in situation where services are received, thus remuneration has to be paid. The State cannot take a stand that they will receive services and at the same time deny the claim for salary. Such a stand will be an antithesis of the fair treatment guarantee of the State enshrined in our Constitution.

27. In the above backdrop, the prayer of the appellant is found to be justified and deserves acceptance and accordingly, this writ appeal stands allowed. The impugned judgment and order dated 09.11.2017, passed by the learned Single Judge in WP(C) No. 3723/2012 and order dated 31.03.2021, passed in I.A. (C)/2232/2020, arisen out of WP(C)/3723/2012, stands set aside. The respondent authorities are, accordingly, directed to release forthwith the arrear salaries of the appellant/petitioner since 01.06.1996 to 09.06.2011. However, as the claim for release of arrear salary was brought in after significant delay, the appellant shall not be entitled to claim interest on the delayed payment. The entire exercise shall be carried out within a period of 3 (three) months from date of receipt of the certified copy of this judgment.

28. With the above observation and direction, this writ appeal stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant