

GAHC010155342023



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

Case No. : WP(C)/4057/2023

NIJARA GOSWAMI
W/O- LATE MANOMOHAN GOSWAMI,
R/O- PATACHARKUCHI TOWN, WARD NO-9,
P.S AND P.O- PATACHARKUCHI,
DIST- BARPETA, ASSAM, PIN-781326

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION,
DISPUR, GUWAHATI-06

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI-06.

3:THE DIRECTOR
OF ELEMENTARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI-19.

4:THE MISSION DIRECTOR
SAMGRA SIKSHA
ABHIJAN MISSION
KAHILIPARA GUWAHATI-781019
ASSAM

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA PIN-781301
ASSAM

6:THE DISTRICT MISSION COORDINATOR

SAMAGRA SIKSHA ABHIJAN MISSION
ASSAM DIST- BARPETA
ASSAM
PIN-781301

7:THE DEPUTY INSPECTOR OF SCHOOLS
BAJALI SUB DIVISION
PATHSALA DIST- BARPETA
ASSAM
PIN-781325

8:THE BLOCK ELEMENTARY EDUCATION OFFICER
BAJALI EDUCATION BLOCK
PATHSALA DIST- BARPETA
ASSAM
PIN-781325

9:THE TREASURY OFFICER
BAJALI TREASURY
PATHSALA DIST- BARPETA
ASSAM PIN-78132

Advocate for the Petitioner : MR. K R PATGIRI
Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

24-07-2023

Heard Mr. K.R.Patgiri, learned counsel for the petitioner and Mr. P.N.Sarma, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1, 3, 5, 7 & 8. Also heard Mr. A. Chaliha, learned Standing counsel, Finance Department of the State for the respondent Nos. 2 & 9 and Ms. P. Das, learned counsel appearing on behalf of Mr. P. Nayak, learned Standing counsel, SSA, Assam for the respondent Nos. 4 & 6.

2. This writ petition has been filed by the petitioner, widow of Manmohan Goswami, who served as a Head Teacher of 369 No. Sariha Chakla Lower Primary School under Bajali Education Block in the District of Barpeta and retired from service on 31.10.2017 on attaining the age of superannuation at

60 years claiming leave encashment benefits of 300 days which was not paid to the husband of the petitioner during his life time.

3. It is placed before the Court that said Manmohan Goswami expired on 19.02.2022 and that during his lifetime, he submitted a representation before the Director of Elementary Education, Assam through the Deputy Inspector of Schools, Bajali, Pathsala on 29.10.2020 that was duly forwarded by the Deputy Inspector of Schools, Bajali, Pathsala vide No. DIS/BAJ/Leave Encashment/2020-21/1378 dated 04.11.2020.

4. It is also placed before the Court that while the husband of the petitioner was in service as Head Teacher of said 369 No. Sariha Chakla L.P. School, he was sent on deputation to work as a Cluster Resource Co-ordinator Center (CRCC) under the District Primary Education Programme (DPEP) as well as Sarba Siksha Abhiyan (SSA), Assam and in that regard, the Deputy Inspector of Schools, Bajali, Pathsala released him from the post of Head Teacher w.e.f. 31.07.1998. Subsequently, the District Mission Co-ordinator, SSA, Barpeta by order No. DMC/SSA/BAR/ESSTT/DEPU/P-II/12/05-06 dated 15.06.2006, released the husband of the petitioner from SSA, Assam w.e.f. 15.06.2006 enabling him to join his parent department.

5. Law regarding the payment of leave encashment benefit to the employees of vacation department under the Education Department of the State has been settled by a Co-ordinate Bench of this Court in the case of *Khagendra Nath Deka and Others Vs. State of Assam and Others* decided on 02.06.2011, reported in *2011 (5) GLT 9* and in pursuance of the same, the Finance Department of the State have issued the relevant Notifications pertaining to release of leave encashment benefits to the retired employees of the vacation department of the State, limiting it to 300 days.

6. The representation of the late husband of the petitioner submitted during his lifetime that was forwarded by the Deputy Inspector of Schools, Bajali, Pathsala on 04.11.2020 to the Director of Elementary Education, Assam, is yet to be considered by the said authority. The Deputy Inspector of Schools, Bajali, Pathsala on 04.03.2021 again apprised the District Elementary Education Officer, Barpeta in that regard.

7. After hearing the learned counsels for the parties and considering the entire aspect of the matter, this writ petition is disposed of directing the petitioner to submit a certified copy of this order along with all the relevant documents including the copy of this writ petition and the annexures appended thereto before the Director of Elementary Education, Assam, respondent No. 3 on or before 11th August, 2023 obtaining necessary acknowledgment from the said authority in that regard.

8 Upon receipt of the same from the petitioner as directed above, the Director of Elementary Education, Assam, respondent No. 3 shall determine the leave encashment benefit payable to the late husband of the petitioner, Manmohan Goswami who retired from service on 31.10.2017 as a Head Teacher of said 369 No. Sariha Chakla L.P. School under Bajali Education Block in the District of Barpeta, in terms of the Notifications issued by the State Government in the Finance Department after the judgment of this Court passed in the case of *Khagendra Nath Deka* (supra) and shall apprise the same to the Secretary to the Government of Assam in the Department of School Education as well as the Finance Department of the State. Thereafter, the respondent authorities in the Department of School Education (Elementary) as well as the Finance Department of the State shall pay the amount towards leave encashment benefit that was payable to the late husband of the petitioner, as per his entitlement, in the account of the petitioner.

9. The respondent authorities in the Department of School Education, the Finance Department of the State and the Director of Elementary Education, Assam, shall complete the entire exercise within a period of 4 (four) months from the date of receipt of a certified copy of this order to be furnished by the petitioner before the Director of Elementary Education, Assam, as directed above.

10. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant