

GAHC010156922023



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

Case No. : WP(C)/4128/2023

ASWINI KUMAR NATH
RETD. HEAD TEACHER OF 1840 NO. UTTAR KARHANA L.P. SCHOOL, S/O-
LATE SANTI RAM NATH, R/O- VILL.- MAJORKHAMA, P.O. CHARNABAZAR,
DIST. BAKSA, ASSAM, PIN- 781328.

VERSUS

THE STATE OF ASSAM AND 11 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-
6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

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

4:THE MISSION DIRECTOR

ASSAM SARBA SIKSHA ABHIJAN MISSION
KAHILIPARA
GUWAHATI-19.

5:THE BODOLAND TERRITORIAL COUNCIL

REPRESENTED BY THE SECRETARY OF EDUCATION
BODOFA NAGAR

KOKRAJHAR
ASSAM
PIN- 783370.

6:THE DIRECTOR OF EDUCATION
BTC

BODOFA NAGAR
KOKRAJHAR
ASSAM
PIN- 783370.

7:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BAKSA DISTRICT
MUSHALPUR
DIST. BAKSA
ASSAM
PIN- 781343.

8:THE DISTRICT MISSION COORDINATOR

SARVA SIKSHA ABHIJAN
BAKSA
MUSHALPUR
DIST. BAKSA
ASSAM
PIN- 781343.

9:THE DEPUTY INSPECTOR OF SCHOOLS

MUSHALPUR
BAKSA
PIN- 781343.

10:THE BLOCK ELEMENTARY EDUCATION OFFICER
JALAH BLOCK

ANCHALI
DIST. BAKSA
BTAD
ASSAM
PIN- 781327.

11:THE BLOCK MISSION COORDINATOR

SSA
JALAH BLOCK

DIST. BAKSA
BTAD
ASSAM
PIN- 781327.

12:THE TREASURY OFFICER
MUSHALPUR TREASURY
DIST. BAKSA
ASSAM
PIN- 781343

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

28-07-2023

Heard Mr. K.R.Patgiri, learned counsel for the petitioner and Mr. P.K.Borah, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 & 3. Also heard Mr. A. Chaliha, learned Standing counsel, Finance Department of the State for the respondent Nos. 2 & 12; Mr. P. Nayak, learned Standing counsel, Sarba Siksha Abhiyan, Assam for the respondent Nos. 4 & 11 and Mr. S. Bora, learned Standing counsel, BTC for the respondent Nos. 5 to 10.

2. It is stated by the petitioner that while serving as an Assistant Teacher at 1552 No. Paschim Khagrabari L.P. School, District-Barpeta; on deputation he was sent to serve as the Cluster Resource Center Co-ordinator (CRCC) as well as the Resource Teacher to the District Primary Education Programme (DPEP) under SSA, Assam and under BTC w.e.f. 01.07.1998 to 31.01.2014. Later, he was reverted back under the Deputy Inspector of Schools, Barpeta as the Head Teacher of 1840 No. Uttar Karhana L.P. School under Jaloh Education Block in the district of Barpeta and he retired from service on 31.03.2023 on attaining the age of superannuation at 60 years.

3. The petitioner is claiming for Leave Encashment Benefits @ 20 days per year during the period

of his deputation at the DPEP and the Sarva Siksha Abhijan Mission, Assam stating that all through the said period of deputation, he was serving under the parent department i.e., the Education Department of the State.

4. In that regard, the petitioner submitted a representation before the Director of Education, BTC, respondent No. 6 on 16.06.2023 for necessary sanctioning of his Leave Encashment Benefits in lieu of Earned Leave that was in balance treating him as Non-Service Employee during the period of his deputation under BTC while serving as the Cluster Resource Center Co-ordinator (CRCC) as well as the Resource Teacher for the DPEP under SSA, Assam.

5. 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 fresh representation along with the certified copy of this order and all the relevant documents including the copy of this writ petition and the annexures appended thereto before the Director of Education, BTC, respondent No. 6 on or before 10.08.2023 obtaining necessary acknowledgment from the said authority in that regard.

6. Upon receipt of the same from the petitioner as directed above, the Director of Education, BTC, respondent No. 6 shall determine the Leave Encashment Benefit entitled and payable to the petitioner, who served on deputation under BTC as the Cluster Resource Center Co-ordinator (CRCC) as well as the Resource Teacher for the DPEP under SSA, Assam and retired from service on 31.03.2023 as the Head Teacher of 1840 No. Uttar Karhana L.P. School under Jalah Education Block, Barpeta, in terms of the Notifications issued by the State Government in the Finance Department after the Judgment and Order of this Court passed in the case of *Khagendra Nath Deka and Others Vs. State of Assam and Others*. The Director of Education, BTC, respondent No. 6 shall determine the Leave Encashment Benefit entitled and payable to the petitioner within a period of 60 (sixty) days from the date of receipt of certified copy of this order and the other documents from him as directed above. Thereafter, the said Director of Education, BTC 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 and also the Director of Elementary Education, Assam for necessary consideration.

7. 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 is payable to him, as per his entitlement and in accordance with law, depositing the same in the Bank Account of the petitioner.

8. The respondent authorities in the Department of School Education, Assam, 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 and the necessary documents to be furnished by the petitioner to those authorities.

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

JUDGE

Comparing Assistant