

GAHC010168602021



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

Case No. : WP(C)/5476/2021

DILIP KUMAR SAIKIA
S/O SHRI NITYANANDA SAIKIA, R/O NO. 2 SILAGAON, P.O.-
SILABALIGAON, DIST-DHEMAJI, ASSAM, PIN-787059

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, ELEMENTARY EDUCATION DEPARTMENT, JANATA BHAWAN,
DISPUR, GUWAHATI-781006

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
ELEMENTARY EDUCATION DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-781006

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHEMAJI
SIKSHA BAHWAN

NALANIPAM
D.I. COLONY
P.O.-DHEMAJI
DHEMAJI
DIST-DHEMAJI
ASSAM
PIN-787057

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
DHEMAJI
GOHAIN GAON
P.O.-GOHAIN GAON
DIST-DHEMJAI
ASSAM
PIN-787057

7:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029

8:THE TREASURY OFFICER
DHEMAJI
SES ROAD
P.O.-DHEMAJI
DHEMAJI
DIST-DHEMAJI
ASSAM
PIN-78705

Advocate for the Petitioner : MS P D NAIR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-08-2023

Heard Mr. P. D. Nair, learned counsel for the petitioner and Mr. P. N. Sarma, learned Standing

counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 to 6. Also heard Mr. D. Rabha, learned Standing counsel, Accountant General (A&E), Assam for the respondent No. 7 and Mr. A. Chaliha, learned Standing counsel, Finance Department of the State for the respondent No. 8.

2. Pursuant to the order No. EPD-16/Provn-UP(Act 2017)/2021/1686 of the State Government and as per the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017, the Director of Elementary Education, Assam by order dated 05.02.2021 provincialised the service of the petitioner as a Tutor and posted him at Majgaon Asomiya Lower Primary School under Dhemaji Education Block in the district of Dhemaji in fixed salary @ Rs. 10,800/- per month. Accordingly, the petitioner joined his service on 08.02.2021 as Tutor in said Majgaon Asomiya L.P. School.

3. It is stated by the petitioner that till date, the salary from the months of March, 2021 to November, 2021 has not been to him. Hence, this petition preferred by the petitioner.

4. During the deliberation of the matter, Mr. Sarma, learned Standing counsel, Department of School (Elementary) Education has placed before the Court a copy of the Non-Drawal Certificate issued by the Block Elementary Education Officer, Dhemaji under No. BEEO/DMJ/2023/4562 dated 29.07.2023 duly counter signed by the Treasury Officer, Dhemaji on 16.08.2023 clarifying that the petitioner did not receive his monthly wages w.e.f. 01.03.2021 to 30.11.2021 amounting to Rs. 97,200/- with the endorsement of the Treasury Officer, Dhemaji that Non-drawal amount could not be ascertained due to non-maintenance of individual records in the Treasury Office.

5. The Treasury Officer, Dhemaji also indicates that fund may be released to the petitioner based on authentication of the report of the concerned Drawing and Disbursing Officer.

6. Mr. Sarma, learned Standing counsel, Department of School (Elementary) Education, on instructions, submits that on receipt of the Non-Drawal Certificate from the Block Elementary Education Officer, Dhemaji as well as the Treasury Officer, Dhemaji, the necessary budget estimate for payment of arrear salary to the petitioner for the period from 01.03.2021 to 30.11.2021 shall be placed for subsidiary demand budget.

7. It is to be noted herein that the petitioner has received his fixed salary of Rs. 10,800/- per month w.e.f. 01.01.2022.

8. 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 a certified copy of this order and other relevant documents before the Director of Elementary Education, Assam as well as the District Elementary Education Officer, Dhemaji on or before 30.08.2023 obtaining necessary acknowledgment from the said authorities.

9. In the event of filing such representation by the petitioner within the time as specified above, the Director of Elementary Education, Assam and the District Elementary Education Officer, Dhemaji shall do the needful for payment of arrear salary payable to the petitioner for the periods from 01.03.2021 to 30.11.2021 which remains unpaid. The authorities concerned shall pay the arrear salary of Rs. 97,200/- to the petitioner by making the necessary budget provision on or before 31.12.2023, as per his entitlement, following the due procedure and in accordance with law.

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

JUDGE

Comparing Assistant