

GAHC010169632023



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

Case No. : WP(C)/4433/2023

ASHOK KUMAR SEAL AND 13 ORS
S/O- LT. RAMONI MOHAN SEAL, RETD. H/M OF R.K.BASU BENGLA
BIDYAPITH (HIGH), VILLAGE AND P.O. KHALILPUR, DIST.- DHUBRI,
(ASSAM), PIN- 783325

2: NUR ISLAM SHEIKH
S/O- LT. HAJI MD. NASER ALI MUNCHI
RETD. H/M OF JOGIRMAHAL HIGH SCHOOL
VILL- JOGIR MOHAL
P.O. BORKANDA
DIST.- DHUBRI
(ASSAM)
PIN- 783348

3: ABDUL BATEN
S/O- LT. ABDUL HAMID
RETD. H/M OF BHASSANICHAR HIGH SCHOOL
VILL- ROOPNAGAR PT-III
P.O. JHAGRARPAR
DIST.- DHUBRI (ASSAM)
PIN- 783325

4: MONBHOLA ROY
S/O- LT. AYDHAN ROY
RETD. H/M (I/C) OF SAHEBGANJ HIGH SCHOOL
VILLAGE- KISMAT HASDAHA PT-III
P.O. KISMAT HASDAHA
DIST.- DHUBRI
(ASSAM)
PIN- 783334

5: BISNU KUMAR ROY
S/O- LT. HARISH CHANDRA ROY
RETD. H/M OF RAIJHORA HIGH SCHOOL

VILLAGE AND P.O. BAHAL PUR
DIST.- DHUBRI (ASSAM)
PIN- 783371

6: PIJUSH KANTI DUTTA
S/O- LT. NANI GOPA DUTTA
RETD. H/M OF R.K. BASU BANGLA BIDYAPITH (HIGH) VILLAGE-
AMBAGAN
P.O. KHALILPUR
DIST.- DHUBRI (ASSAM)
PIN- 783325

7: LAKSMI RANI SAHA
W/O- LT. SUBAL CHANDRA SAHA
RETD. H/M OF NABA BHARAT PATSALA HIGH SCHOOL
GOLAKGANJ
VILL- WARD NO.9
BOC MORE
DHUBRI
P.O. AND DIST.- DHUBRI (ASSAM)
PIN- 783301

8: MD. ABDUL HAMID MOLLAH
S/O- LT. TAFIZZUDDIN MOLLAH
RETD. SUPTD. OF PANBARI RANGAMATI SR. MADRASSA (CONVERTED
TO PANBARI RANGAMATI HIGH SCHOOL)
VILL- ALOMGANJ PT-VII
P.O. RANIGANJ
P.S. GAURIPUR
DIST.- DHUBRI (ASSAM)
PIN- 783331

9: ABDUL QUDDUS
S/O- LT. MOHIR UDDIN MUNSHI
RETD. SUPDT. OF FAKHRUL ULUM ARABIC COLLEGE (CONVERTED TO
FAKHRUL ULUM HIGH SCHOOL)
VILL- SONAKHULI
P.O. AND P.S. AGOMANI
DIST.- DHUBRI (ASSAM)
PIN- 783335

10: MD. NUR HUSSAIN
S/O- LT. SONTESH ALI
RETD. SUPDT. OF RAHMATGANJ SR. MADRASSA (CONVERTED TO
RAHMATGANJ SR. HIGH SCHOOL)
VILL- TOKRERCHARA
P.O. CHAGOLIA
P.S. GOLAKGANJ

DIST.- DHUBRI
(ASSAM)
PIN- 783335

11: MD. ABDUL GONI
S/O- LT. GANJER ALI
RETD. SUPDT. OF GHOGARPAR SENIOR MADRASSA (CONVERTED TO
GHOGARPAR HIGH SCHOOL)
VILL- CHAGOLIA PT-II
P.O. CHAGOLIA
P.S. GOLAKGANJ
DIST.- DHUBRI (ASSAM)
PIN- 783335

12: MD. NASIR UDDIN AHMED
S/O- LT. SABDER ALI AHMED
RETD. SUPDT. OF HOWRARPAR SENIOR MADRASSA (CONVERTED TO
HOWRARPAR HIGH SCHOOL)
VILL- BOROBILA PT-I
P.O. KHALILPUR
P.S. AND DIST.- DHUBRI
(ASSAM)
PIN- 783325

13: MD. SHAMSUDDIN MIAH
S/O- LT. FAZAR ALI
RETD. SUPDT. OF GHOGARPAR SENIOR MADRASSA (CONVERTED TO
GHOGARPAR HIGH SCHOOL)
VILL- SAGOLIA PT-I
P.O. SAGOLIA
P.S. GOLAKGANJ
DIST.- DHUBRI
(ASSAM)
PIN- 783335

14: SURESH CH. ROY
S/O- LT. PARESH CH. ROY
RETD. H/M OF BOTERHAT SCHOOL
VILLAGE AND P.O. LOHAJANI
DIST.- DHUBRI
(ASSAM)
PIN- 78333

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT,

DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE (ESTT.-A) DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE INSPECTOR OF SCHOOLS
P.O. AND DIST.- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. P DAIMARY

Advocate for the Respondent : SC, FINANCE

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

23/08/2023

Heard Mr. R Karim, learned counsel for the petitioners and Mr. P N Sarma, learned Standing counsel, Department of School Education for the respondent Nos. 1, 3 & 4. Also heard Mr. B Gogoi, learned Standing counsel, Finance Department for the respondent No. 2.

2. Petitioner No. 1, Ashok Kumar Seal, Headmaster of R.K. Basu Bengla Bidyapith, retired from service on 30.04.2021, petitioner No. 2, Nur Islam Sheikh, Headmaster of Jogirmahal High School, retired from service on 31.03.2021, petitioner No. 3, Abdul Baten, Headmaster of Bhassanichar High School, retired from service on 29.02.2020, petitioner No. 4, Monbhola Roy, Headmaster in-charge of Sahebganj High School, retired from service on 31.01.2020, petitioner No. 5, Bisnu Kumar Roy, Head Teacher of Raijhora High School, retired from service on 28.02.2019, petitioner No. 6, Pijush Kanti Dutta, Headmaster of R.K. Basu Bangla Bidyapith (High), retired from service on 31.12.2019,

petitioner No. 7, Laksmi Rani Saha, Headmaster of Naba Bharat Patsala High School, Golakganj, retired from service on 30.11.2017, petitioner No. 8, Md. Abdul Hamid Mollah, Superintendent of Panbari Rangamati Senior Madrassa, retired from service on 31.01.2016, petitioner No. 9, Abdul Quddus, Superintendent of Fakhrul Ulum Arabic College, retired from service on 31.01.2015, petitioner No. 10, Md. Nur Hussain, Superintendent of Rahmatganj Senior Madrassa, retired from service on 31.12.2013, petitioner No. 11, Md. Abdul Goni, Superintendent of Ghograrpar Senior Madrassa, retired from service on 31.12.2019, petitioner No. 12, Md. Nasir Uddin Ahmed, Superintendent of Howrarpar Senior Madrassa, retired from service on 31.01.2012, petitioner No. 13, Md. Shamsuddin Miah, Superintendent of Ghograrpar Senior Madrassa, retired from service on 31.03.2009 and petitioner No. 14, Suresh Ch. Roy, Headmaster of Boterhat High School, retired from service on 31.12.2009. All the petitioners are from the District of Dhubri.

3. It is submitted that all the teachers and Superintendents, named above served in the vacation Department, i.e. Education Department of the State under the Directorate of Secondary Education, Assam till their retirement from service on attaining the age of superannuation.

4. However, it is alleged that after their retirement from service, the respondents paid to them their Leave Encashment Benefit for specific numbers of days, but did not release the cash equivalent of their earned leaves to the extent of 300 days as entitled by them, similar to that of Government employees of non-vacation Departments. Hence, this writ petition by the petitioners praying for necessary direction to the respondents herein.

5. This Court by its Judgment & Order dated 2nd June, 2011, passed in the case of *Khagendra Nath Deka & Others -Vs- State of Assam & Others* [WP(C) No. 9851 of 2003] reported in 2011 (5) GLT 9 have held that those employees who belonged to vacation Department are also equally entitled to leave encashment to the extent of 300 days and cannot be limited to 80 days.

6. Pursuant to the said Judgment and Order dated 02.06.2011, the State Government in the Finance (ESTT-A) Department vide No. FEG.4/2000/153 dated 03.03.2012 issued an Office Memorandum clarifying that the benefit of unutilized leave encashment at the credit on the date of retirement on superannuation will be admissible to the employees of the vacation Department to the extent of permissible days, as in force, at the relevant period, for the employees of the non-vacation Department.

7. Learned counsels appearing for both the parties have accepted that the present matter is covered by the decision of this Court dated 02.06.2011 passed in WP(C) No.9851/2003 noted above,

i.e., *Khagendra Nath Deka* (supra) and the consequential Office Memorandum dated 03.03.2012 of the Finance Department of the State. Petitioners have also placed that following the said Judgment & Order dated 02.06.2011 passed in WP(C) No. 9851/2003, this Court has also passed similar orders on 08.08.2016 in W.P.(C) No. 4728/2014 and 18.02.2019 in W.P.(C) No. 1733/2019.

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 petitioners to file individual applications before the authority concerned, i.e., the Inspector of Schools, Dhubri respondent No. 4 **on or before 20.09.2023** along with the certified copy of this order, all the relevant documents including the copy of this writ petition and the Annexures appended thereto, obtaining necessary acknowledgment from the said authority in that regard.

9. In the event of filing such applications by the petitioners, within the said specified time, as directed above, the Inspector of Schools, Dhubri respondent No. 4 shall release the cash equivalent of their earned leaves to the petitioners as per their entitlement in terms of the Judgment & Order dated 02.06.2011 passed in WP(C) No. 9851/2003 and the Office Memorandum No. FEG.4/2000/153 dated 03.03.2012 of the Finance (ESTT-A) Department of the State, to the extent of 300 days, less the cash equivalents already paid to them, after making necessary enquiry, within a period of three months from the date of receipt of the applications to be submitted by the petitioners before the said authority along with the certified copy of this order.

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

JUDGE

Comparing Assistant