

GAHC010169712021



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

Case No. : WP(C)/5506/2021

HEM KANTA PHUKAN AND 11 ORS
S/O LATE ROSHESHWAR PHUKAN, R/O VILL. MENCHHA, P.O. LALUK, DIST.
LAKHIMPUR, ASSAM.

2: RAMNATH DAS

S/O LAKSHESHWAR DAS
R/O VILL. BONGALMORA
SANTIPUR
P.O. BARALANGI
DIST. LAKHIMPUR
ASSAM.

3: CHENIMAI DAS

W/O LILA BHUMIJ
R/O VILL. CHAT
P.O. LAKHANABARI
DIST. LAKHIMPUR
ASSAM

4: SADANANDA DADHARA

S/O PRABHAT DADHARA
R/O VILL. AND P.O. SANTPUR
DIST. LAKHIMPUR

5: SONMONI DEORI

W/O RAJU DEORI
R/O VILL. AND P.O. BAHGARA
DIST. LAKHIMPUR
ASSAM.

6: JINTIMONI BORAH

W/O TILAK NEOG
R/O WARD NO. 3
BIHPURIA
P.O BIHPURIA
DIST. LAKHIMPUR
ASSAM.

7: RAJIB PATHAK

S/O LATE LILAKANTA PATHAK
R/O VILL. SONARI BARI GAON
P.O. LATEKUPUKHURI
DIST. LAKHIMPUR
ASSAM.

8: IRANI HAZARIKA

W/O TANKESWAR HAZARIKA
R/O VILL. MORNOIGURI
P.O. DIKRONG
DIST. LAKHIMPUR
ASSAM.

9: MANJURANI DAS

W/O REBA DAS
R/O VILL. DAKUWA
P.O. DHALPUR
DIST. LAKHIMPUR
ASSAM.

10: BULU CHANDRA NATH
S/O LATE JUGESH CHANDRA NATH
R/O VILL. KATHANI MERBIL
P.O. MERBIL
DIST. LAKHIMPUR
ASSAM.

11: ASHIM BHUYAN

S/O LATE BAGIRAM BHUYAN
R/O GOPALPUR
P.O PHULBARI
DIST. LAKHIMPUR
ASSAM.

12: SANDIP GOPE

S/O LATE NANI GOPAL GOPE
R/O WARD NO. 4
BIHPURIA
P.O. BIHPURIA
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DEPTT., DISPUR, GUWAHATI 781006

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

3:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI 781019

4:THE DIST. ELEMENTARY EDUCATION OFFICER

LAKHIMPUR
P.O. AND DIST. LAKHIMPUR
ASSAM
PIN 787001

5:THE DEPUTY INSPECTOR OF SCHOOLS

LAKHIMPUR
P.O. AND DIST. LAKHIMPUR
ASSAM
PIN 787001

6:THE BLOCK ELEMENTARY EDUCATION OFFICER

BIHPURIA
P.O. BIHPURIA
DIST.LAKHIMPUR
ASSAM
PIN 784161

7:THE BLOCK ELEMENTARY EDUCATION OFFICER

NARAYANPUR
P.O. NARAYANPUR
DIST. LAHIMPUR
ASSAM
PIN 78416

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : SC, AG

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 12.05.2023

Heard Mr. S. Islam, the learned counsel for the petitioners. Mr. P.N. Sarma, the learned Standing Counsel appears on behalf of the respondent Nos. 1, 3, 4, 5, 6 & 7 and Ms. P. Swargiary, the learned Standing Counsel for the respondent No. 2.

2. The instant writ petition has been filed by the petitioners claiming that they are entitled to pension in terms with the Assam Service(Pension) Rules, 1969 as well as also entitled to subscribe to the GPF in terms with the General Provident Fund (Assam Services) Rules, 1937.

3. The learned counsel appearing on behalf of the petitioners submits that the case of the petitioners is squarely covered by the judgment of this Court in the case of **Purnima Hore and Ors. Vs. State of Assam** reported in **2023 SCC Online Gau 1165** wherein this Court at paragraph No. 123 held that those teachers who come within the fold of stipendiary teachers were entitled to the benefits under the Assam Service (Pension) Rules. 1969 and they are not

covered under the new pension scheme in terms with the New Defined Contributory Pension Scheme, 2009. This Court further held in the said judgment that such teachers would also be entitled to subscribe to the GPF. Apart from that, this Court also held that such teachers would also be entitled to other pensionary benefits to which a Government servant of corresponding rank would be entitled to. The learned counsel further submitted that the petitioners as would appear from a perusal of the Annexures-1 to the writ petition were appointed on various dates as stipendiary teachers. Thereupon they completed the Junior Basic Training as would appear from a perusal of Annexure-2 series and they were given the regular scale of pay from 2007 onwards. Further to that, the learned counsel also submitted that initially the petitioners had subscribed to the GPF but subsequently in pursuance to an order issued by the Director, Finance Budget Department to the Deputy Accountant General (PA) dated 23/2/2010, the petitioners were not allowed to subscribe to the GPF. It is under such circumstances, the petitioners therefore approached this Court claiming the relief as sought for.

4. Upon perusal of the materials and hearing the learned counsel appearing on behalf of the parties, this Court is of the opinion, that the case of the petitioners is squarely covered by the judgment of this Court in the case of **Purnima Hore** (supra).

5. Accordingly, the petitioners would be entitled to the benefits under the Assam Service (Pension) Rules, 1969 and the petitioners are not covered under the NCDPS, 2009. This Court further observes that the petitioner would be entitled to subscribe to the GPF in terms with the General Provident Fund (Assam Services) Rules 1937.

6. Taking into account the above declaration, this Court therefore disposes

the instant writ petition thereby directing the Respondent Authorities to do the needful so that the petitioners are granted the benefits of pension in terms with the Assam Service (Pension) Rules of 1969 as well as the GPF in terms with the General Provident Fund (Assam Services) Rules 1937.

7. This Court further makes it clear that in doing so the said authorities would be at liberty to deduct such amounts so deposited by the State Government in terms with the NCDPS, 2009.

8. With the above observations and directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant