

GAHC010176962021



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

Case No. : WP(C)/5703/2021

BISWAJIT DEKA AND 3 ORS
S/O- LT. HAHIRAM RAM DEKA, ASSTT. TEACHER, NAVAJYOTI HIGH
SCHOOL, SARTHEBARI, DOA- 05.03.1992, R/O- VILL- BAPUJI NAGAR, P.O.
AND P.S. SARTHEBARI, DIST.- BARPETA, PIN- 781307

2: TANKESWAR NATH
S/O- LT. UMESH CH. NATH
ASSTT. TEACHER
SARTHEBARI HIGHER SECONDARY SCHOOL
SARTHEBARI
DOA- 28.03.1992
R/O- VILL AND P.O. GAHIYA
P.S. SARTHEBARI
DIST.- BARPETA
PIN- 781311

3: DILIP KUMAR NATH
S/O- LT. DEBENDRA NATH
ASSTT. TEACHER
MADHYA SARUKHETRI HIGH SCHOOL
DOA- 30.03.1992
R/O- VILL AND P.O. BARKAPALA
P.S. SARTHEBARI
DIST.- BARPETA
PIN- 781307

4: KH. AMINUR RAHMAN
S/O- LT. KH. AZIZUR RAHMAN
ASSTT. TEACHER
GAHIYA HIGH SCHOOL
DOA- 12.11.2009
R/O- VILL- BALAR BHITA
P.O. DABALIA PARA
DIST.- BARPETA

PIN- 78131

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, SECONDARY
EDUCATION DEPTT., ASSAM CIVIL SECRETARIAT, DISPUR, GHY-6

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY
ASSAM
PIN- 781019

3:THE INSPECTOR OF SCHOOLS
BARPETA DISTRICT CIRCLE
BARPETA
PIN- 78130

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 27.09.2023

Heard Mr. A. Roshid, learned counsel for the petitioners and Mr. U. Sarma, learned counsel for the respondents in the Secondary Education Department of the Government of Assam.

2. The petitioners herein who are serving as Subject Teachers/Assistant Teachers in the respective secondary schools and were appointed prior to 03.07.2012, had acquired B.Ed. degree. Upon acquiring B.Ed. degree, the petitioners were granted one advance increment as per the order dated 25.06.2021. But, by the impugned order dated 06.10.2021 of the In-charge

Inspector of Schools, BDC, Barpeta, one advance increment given to the petitioners was cancelled until further orders. Being aggrieved this writ petition is instituted.

3. By our earlier order dated 13.09.2023, we required the respondents in the Secondary Education Department to inform the Court as to whether any notice was issued to the petitioners by giving them an opportunity of hearing prior to the order of cancellation of one advance increment.

4. Mr. U. Sarma, learned counsel for the respondents in the Secondary Education Department upon obtaining information from the department has informed the Court that no such notice was given to the petitioners.

5. Admittedly by the order dated 25.06.2021, upon the petitioners being given one advance increment, a legal right had been accrued to them for enjoying the benefit of the one advance increment. If the respondents are of the view that the one advance increment was incorrectly given, the option open would be to at least give a notice to the petitioners along with a hearing before passing any order of cancellation of the legal right obtaining the one advance increment.

6. As no notice had been given to the petitioners, we are of the view that the impugned order dated 06.10.2021 is vitiated for being issued in violation of the principles of natural justice.

7. Accordingly, the order dated 06.10.2021 cancelling the one advance increment to the petitioners is set aside. However, if so advised, the respondents may proceed against the petitioners by serving a notice and giving an opportunity of hearing if the respondents are of the view that the one advance increment was given to the petitioners when they were not entitled for the same under the law.

Writ petition stands disposed of as indicate above.

JUDGE

Comparing Assistant