

GAHC010188212023



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

Case No. : WP(C)/5114/2023

BISWAJIT SARMA AND 19 ORS
S/O LATE KHARGESWAR SARMA, (RETIRED HINDI MASTER OF
RAMKRISHNA ASHRAM VIDYAPITH M.E. SCHOOL), R/O VILL- LAKHIPUR
FESHERTARI (THANAMOR), P.O.-LAKHIPUR, P.S.-LAKHIPUR, DIST-
GOALPARA, ASSAM, PIN-783129

2: ABDUL BATEN MIAH
S/O LATE ASROF ALI (RETIRED HEAD MASTER OF JAMIRABARI M.E.
MADRASSA)
R/O VILL-CHAKLA NATH PARA
P.O.-BASHABARI
P.S.-BAGUAN
DIST-GOALPARA
ASSAM
PIN-783129

3: MAKRAM ALI @ MUKAM ALI
S/O LATE SAMSER ALI
(RETIRED HEAD MASTER OF HALDIBARI M.E. MADRASSA)
R/O VILL- HALDIBARI
P.O.-DHUMERGHAT
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783129

4: ABDUR ROHIM MIAH
S/O LATE ABDUL HAMID
(RETIRED HEAD MASTER OF ROWKHOWA M.E. MADRASSA)
R/O VILL-MOTHABARI
P.O.-JOYBHUM
P.S.-BAGUAN
DIST-GOALPARA
ASSAM

PIN-783129

5: ABDUL HAI
S/O LATE NOSER UDDIN SHEIKH
(RETIRED HEAD MASTER OF TAKIMARI MAMUDPUR M.E. MADRASSA)
R/O VILL-LEZAM
P.O.-CHUNARI
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

6: MOZOR ALI MONDAL
S/O LATE SADER ALI MONDAL
(RETIRED HEAD MASTER OF BHERBHERY M.E. MADRASSA)
R/O VILL-KHALISAVITA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

7: WAZED ALI MONDAL
S/O LATE MOKSED ALI
(RETIRED HEAD MASTER OF SHAHAMMAD ALI MEMORIAL M.E. MADRASSA)
R/O VILL-KHALISAVITA
P.O.-KHALISAVITA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

8: ABDUL WAHAB AHMED
S/O LATE MOKSED ALI KHAN
(RETIRED HEAD MASTER OF MESERBHITA GIRLS M.E. MADRASSA)
R/O VILL-MESERBHITA
P.O.-MESERBHITA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

9: MOHAMMAD ALI MONDAL
S/O LATE ABDUL JUBBAR MONDAL
(RETIRED HEAD MASTER OF HURKACHUNGI M.E. SCHOOL)
R/O VILL-HASHDOBA
P.O.-HASHDOBA
P.S.-LAKHIPUR

DIST-GOALPARA
ASSAM
PIN-783129

10: ABDUL RAHMAN
S/O LATE BODORUDDIN
(RETIRED HEAD MASTER OF SIMLABARI M.E. SCHOOL)
R/O VILL-CHARALJHAR
P.O.-KHALISABHITA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

11: ABDUS SALAM MIAH
S/O LATE HAJI JALAL UDDIN
(RETIRED HEAD MASTER OF CHAIBARI M.E. SCHOOL)
R/O VILL-JOYBHUM
P.O.-JOYBHUM
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

12: MOFIZ UDDIN AHMED
S/O LATE MOLAN ALI SHEIKH
(RETIRED HEAD MASTER OF KURSHAPAKRI CHILARAI M.E. SCHOOL)
R/O VILL-HURKACHUNGI
P.O.-HASHDOBA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

13: ABDUL QUDDUS @ KUDDUS
S/O LATE MOZIBUR RAHMAN
(RETIRED HEAD MASTER OF TULSHIBARI M.E. SCHOOL)
R/O VILL-HASHDOBA
P.O.-HASHDOBA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

14: ABDUL BASER MIAH
S/O LATE GOLAP UDDIN
(RETIRED HEAD MASTER OF GHUGUDoba M.E. MADRASSA)
R/O VILL-CHULKANIPARA

P.O.-TAKIMARI
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

15: ANOWAR HUSSAIN BHUYAN
S/O LATE BAXA ULLAH
(RETIRED HEAD MASTER OF SHALDOWA M.E. MADRASSA)
R/O VILL-SHALDOWA
P.O.-GAURNAGAR
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

16: ABDUL AWAL MIAH
S/O LATE ABUL KASHEM MIAH
(RETIRED HEAD MASTER OF SISHUJYOTI M.E. SCHOOL
LAKHIPUR TOWN)
R/O VILL-KATARIHARA
P.O.-KATARIHARA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

17: ABDUR RAHIM MIAH
S/O LATE NUR UDDIN SHEIKH
(RETIRED HEAD MASTER OF CHATAPARA M.E. MADRASSA)
R/O VILL-WEST KATHURI
P.O.-RAJMITA
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

18: ANOWAR HUSSAIN PARAMANIK
S/O LATE KAIMUSAL PARAMANIK
(RETIRED HEAD MASTER OF JALESWAR BILL M.E. MADRASSA)
R/O VILL-JALESWAR BILL
P.O.-JALESWAR
P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

19: SULTAN MAHMUD

S/O LATE FOYEZ UDDIN MUNSHI
(RETIRED HEAD MASTER OF HAGURIPARA M.E. MADRASSA)
R/O VILL-BAPURVITA PART-II
P.O.-DHAMOAR
P.S.-BAGUAN
DIST-GOALPARA
ASSAM
PIN-783129

20: MOINUL HOQUE
S/O LATE ANOWAR ALI SARKAR
(RETIRED HEAD MASTER OF KILLAHARA M.E. MADRASSA)
R/O VILL-CHIRAKUTA
P.O.-CHIRAKUTA
P.S.-CHAPAR
DIST-DHUBRI
ASSAM
PIN-78337

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI, PIN-781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE (ESTT.-A) DEPARTMENT
DISPUR
GUWAHATI
PIN-781006

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI
PIN-781021

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOALPARA
ASSAM
P.O.
P.S. AND DIST-GOALPARA
ASSAM
PIN-783101

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

LAKHIPUR EDUCATION BLOCK
AT LAKHIPUR
P.O. AND P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783371

6:THE DY. INSPECTOR OF SCHOOLS
GOALPARA
ASSAM
P.O.
P.S. AND DIST-GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : Ms. R. R. BORAH

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

08/09/2023

Heard Mr. A A R Karim, learned counsel for the petitioner and Mr. P N Sarma, learned Standing counsel, Department of School (Elementary) Education for the respondent Nos. 1, 3, 4, 5 & 6. Also heard Mr. A Chaliha, learned Standing counsel, Finance Department for the respondent No. 2.

2. Petitioners herein are retired Headmasters/Hindi Teachers of different provincialised M.E. Schools/M.E. Madrassas in the District of Goalpara.

3. It is contended by the petitioners that at the time of their retirement from service, the petitioners had 196 to 268 days leave in their credit.

4. It is submitted that all the Headmasters/Hindi Teachers served in the vacation Department, i.e. Education Department of the State under the Directorate of Elementary Education, Assam till their retirement from service on attaining the age of superannuation.

5. However, it is alleged that after their retirement from service, the respondents paid 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 the Government

employees of non-vacation Departments. Hence, this writ petition by the petitioners praying for a direction to the respondents to pay them the leave encashment benefit for the maximum period of 300 days.

6. 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.

7. 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.

8. 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.

9. 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 representations before the District Elementary Education Officer, Goalpara respondent No. 4 **on or before 22.09.2023** giving the details of their claim pertaining to the leave encashment benefit 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.

10. In the event of filing such representation by the petitioners, within the said specified time, as directed above, the District Elementary Education Officer, Goalpara 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 representation to be submitted by the petitioners before the said authority along with the certified copy of this order.

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

JUDGE

Comparing Assistant