

GAHC010197372023



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

Case No. : WP(C)/5167/2023

SHAHJAHAN AHMED
S/O- ASIR UDDIN AHMED, VILL.- KAMARPARA, P.O. NAYER ALGA, P.S.
BILASIPARA, DIST. DHUBRI, ASSAM, PIN- 783348.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT. OF ASSAM
EDUCATION DEPARTMENT
DISPUR
GHY-6.

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19.

4:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
P.O.
P.S. AND DIST. DHUBRI
PIN- 783301.

5:THE TREASURY OFFICER

BILASIPARA TREASURY OFFICE
BILASIPARA

DIST. DHUBRI
ASSAM

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
ASSAM
PIN- 783301.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER

BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348.

8:THE PRINCIPAL OF NAYERALGA H.S. SCHOOL
NAYERALGA
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-09-2023

Heard Mr. M. U. Mondal, learned counsel for the petitioner and Mr. B. Talukdar, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1, 2, 3, 6 & 7. Also heard Ms. D.D. Barman, learned Government Advocate, Assam for the respondent No. 4 and Mr. A. Chaliha, learned Standing counsel, Finance Department of the State for the respondent No. 5.

2. The Deputy Inspector of Schools, Bilasipara on 14.03.2001 appointed the petitioner as an Assistant Teacher of 1730 No. Kamarpara Lower Primary School at fixed pay of Rs. 1800/2000/- per month against the post created under the Operation Black Board (7066) Scheme vide Government

letter No. PMA.24/96/215 dated 08.03.2001. Pursuant to the order of the Court, the service of the petitioner was subsequently regularized and adjusted against the vacant sanctioned post during the year, 2010 and he was posted at 1386 No. Nayeralga L.P. School under the Bilasipara Education Block, District-Dhubri indicating that the petitioner will enjoy the prescribed Scale of Pay after passing the requisite Junior Basic Training/Diploma in Elementary Education (D.El.Ed).

3. After regularization of his service, the State Government in the Education Department recommended the name of the petitioner for his educational training at the Basic Training Center (BTC), Golakganj, District-Dhubri. The petitioner with Roll No. 74 passed his final Assessment (1st to 4th Semester) of 2 years D.El.Ed. course for Lower Primary from the BTC, Golakganj, during the Session 2010-2012, the result of which was declared on 06.06.2012. However, in the Provisional Certificate of the petitioner pertaining to his D.El.Ed. course, the Principal of BTC, Golakganj wrongly indicated the date of passing of said D.El.Ed. course as 10.12.2012 instead of 06.06.2012.

4. As such, the petitioner approached the respondent authorities in the Elementary Education Department by submitting all the relevant documents including the Certificate No. BTC/GKJ/Exam-24/2012/74 dated 19.06.2012 issued by the Principal of BTC, Golakganj whereby the said authority clarified that the petitioner passed his D.El.Ed. course on 06.06.2012.

5. By communication No. PMA.9/2012/Pt.IV/33 dated 20.10.2012, the Commissioner and Secretary to the Government of Assam in the Elementary Education Department informed the Director of Elementary Education, Assam to issue necessary instruction to the concerned Drawing and Disbursing Officers (DDO) for payment of the monthly salary in the usual Scale of Pay to the concerned Upper Primary and Lower Primary Teachers who came out successful in the Junior Basic Training and Senior Basic Training courses being eligible for usual Scale of Pay.

6. With regard to the petitioner who passed 2 (two) years (4 Semesters) D.El.Ed course, the Deputy Secretary to the Government of Assam in the Elementary Education Department vide No. AEE.407/2007/41 dated 09.10.2013 informed the Director of Elementary Education, Assam regarding approval for allowing usual Scale of Pay to the petitioner under Rules 5 (vi)(b)(D) of the Assam Elementary Education (Provincialisation) (Amendment) Rules, 2005 w.e.f. 10.12.2012 and accordingly, the petitioner was given the usual Scale of Pay along with other benefits including the increments w.e.f. 10.12.2012.

7. As the petitioner passed his 2 (two) years (4 Semesters) D.El.Ed. course on 06.06.2012, he

submitted a representation on 07.07.2014 before the Deputy Inspector of Schools, Bilasipara along with all the relevant documents enabling him to draw usual Scale of Pay w.e.f. 06.06.2012 and the Deputy Inspector of Schools, Bilasipara under No. DB/Training/2/2012-13 dated 10.01.2014 wrote to the District Elementary Education Officer (DEEO), Dhubri to provide usual Scale of Pay to the petitioner w.e.f. 06.06.2012 and in turn, the DEEO, Dhubri by order No. EED-303/P/2001/Pt-I/1437 dated 01.02.2014 informed the Director of Elementary Education Officer, Assam to allow the petitioner to draw the usual Scale of Pay w.e.f. 06.06.2012 on obtaining his D.El.Ed course.

8. The matter was moved by the Director of Elementary Education, Assam with the State Government in the Elementary Education Department vide communication No. EPD/OB/6/52/2010/Pt-II/172 dated 05.03.2014 and the State Government in the Elementary Education Department by communication No. AEE.407/2007/60 dated 10.04.2014 gave its approval allowing the time Scale of Pay to be drawn by the petitioner w.e.f. 06.06.2012 instead of 10.12.2012 communicated earlier vide letter No. AEE.407/2007/41 dated 09.10.2013.

9. However, the concerned BEEO, Bilasipara, District-Dhubri being the competent DDO with regard to provincialised L.P. Schools within the rural zone, received the said intimation of the State Government in the Elementary Education Department dated 10.04.2014 belatedly.

10. It is to be noted herein that in the year 2018, said 1386 No. Nayeralga L.P. School was amalgamated with Nayeralga Higher Secondary School, both under Bilasipara Education Block, District-Dhubri. The BEEO, Bilasipara, vide communication No. BOB/2017-18/2629 dated 18.12.2018 informed the Principal of Nayeralga H.S. School, Nayeralga to provide the Scale of Pay to the petitioner w.e.f. 06.06.2012 at estimated Rs. 83,766/- with due increment. As the same has not yet been paid to him, being aggrieved, the petitioner has preferred this writ petition.

11. From the communication dated 09.10.2013 of the Deputy Secretary to the Government of Assam in the Elementary Education Department, it is seen that earlier the authorities concerned issued direction to the Director of Elementary Education, Assam to pay usual Scale to the petitioner w.e.f. 10.12.2012 which was subsequently modified by the communication dated 10.04.2014 regarding the payment of Scale of Pay to the petitioner w.e.f. 06.06.2012.

12. This being an admitted position, the concerned DDO of provincialised L.P. Schools in the Bilasipara Education Block of Dhubri District is directed to assess the arrear Scale of Pay payable to the petitioner w.e.f. 06.06.2012 along with the increments, if any, and shall submit a report before the

Principal of Nayeralga H.S. School, Nayeralga, Dhubri, who in turn, through the District Elementary Education Officer, Dhubri shall place the same before the Director of Elementary Education, Assam. Thereafter, the Director of Elementary Education, Assam shall forward it to the Secretary to the Government of Assam in the Department of School (Elementary) Education, who in turn, shall obtain necessary approval from the Finance Department of the State and shall accordingly communicate the same to the Treasury Officer, Bilasipara Treasury Office for payment of such arrear amount due to the petitioner along with the increments in terms of the communications No. AEE.407/2007/41 dated 09.10.2013 and No. AEE.407/2007/60 dated 10.04.2014 of the State Government in the Elementary Education Department.

13. The petitioner for the said purpose shall submit a detail representation along with a certified copy of this order and all the relevant documents on or before 30.10.2023 before the Block Elementary Education Officer, Bilasipara, District-Dhubri as well as the Principal of Nayeralga H.S. School, Nayeralga, District-Dhubri obtaining necessary acknowledgment from the said authorities in that regard.

14. Upon receipt of the representation of the petitioner within the time as specified above, the respondent authorities in the Elementary Education Department as well as the Finance Department of the State shall complete the entire process on or before 31.01.2024.

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

JUDGE

Comparing Assistant