

GAHC010202902022



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

Case No. : WP(C)/7011/2022

SONAULLAH SK
S/O- LATE ASURUDDIN SK.
VILL- SHIMULBARI (LALKURA),
P.O- SIMLABARI, P.S- BAGUAN,
DIST- GOALPARA, ASSAM

VERSUS

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

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
GOALPARA
ASSAM

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
BALIJANA EDUCATION BLOCK
BALIJANA

DIST- GOALPARA
ASSAM

5:THE HEAD MASTER
OF LALKURA

MODEL ME SCHOOL
LALKURA (SIMULBARI)

P.O- SIMLABARI

P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN-783101

6:SHAHAB UDDIN
SON OF LATE MATIOR RAHMAN

VILL- THEPKAI (SOPATOLA)
P.O- SIMLABARI

P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24/01/2023

Heard Mr. J. Ahmed, the learned counsel appearing on behalf of the petitioner and Mr. B. Kaushik, the learned standing counsel appearing on behalf of the Elementary Education Department.

2. The instant writ petition is taken up for disposal at the motion stage itself.
3. The case of the petitioner in brief is that the petitioner who was appointed as Chowkidar vide resolution No. 1 dated 31/5/1987 by the Managing

Committee of Lolkura Model ME School. The services of the petitioner was regularised vide order dated 19/4/1996 w.e.f. 27/02/1996 with a scale of pay of Rs. 900/--15/-1005/-20/-1105/-EB-20/-1225/-30/-1435/- per month plus other allowances as admissible under rules. It is the case of the petitioner that when the petitioner was posted at Killahara ME School Madrassa and the Headmaster of Lalkura Model ME School did not hand over the service book of the petitioner to him in spite of various request. The petitioner had also come to learn that the service book of the petitioner has not been upgraded. In that regard, the Block Elementary Education Officer, Balijana Education Block had issued a letter dated 5/8/2013 to the Headmaster of the said school requesting to submit the required information of Grade-IV employees of his school as per the proforma enclosed with the letter on or before 15/08/2013 positively for submission to the DEEO, Goalpara. It has been mentioned that the District Elementary Education Officer, Goalpara passed an order dated 31/10/2013 in response to the Education Department Notification No. AEE-301/2012/33 dated 13/8/2013 allowing financial up gradation as per the ACPS scheme to the teaching and non-teaching staff of the upper primary schools under Block Elementary Education Officer, Balijana including the petitioner. It has been also mentioned that the petitioner has got the second financial up gradation under the ACPS and also allowed to draw pay and allowances after fixation of pay w.e.f. the date as shown against their names. However, due to the non-submission of the required information to the DEEO, Balijana by the Headmaster of the said school, the petitioner has been deprived to get the second financial up gradation and other benefits. It is also the further case of the petitioner that as per the notification dated 06/07/2017 the petitioner is also entitled to get financial up gradation three times in the entire service period. However, on

account of non-up gradation of the service book, the petitioner has been deprived of his benefits. Under such circumstances, the petitioner submitted a representation dated 11/12/2021 to the Headmaster of Lalkura Model ME School requesting to up grade the time scale from 2016 which was received by the Headmaster on 11/12/2021 and in the body of the said representation the Headmaster written that "already submitted the time scale form at the office of BEEO, Balijana". It further appears that the petitioner has been submitting the representations after representations from time to time but the respondent authorities have not taken steps in that regard. The petitioner also have come to learn that the BEEO, Balijana Education Block had furnished the copy of the letter dated 18/01/2022 submitted by the Headmaster to the BEEO along with the police report dated 21/01/2022 to the petitioner. The petitioner on receiving the said letter could learn that the Headmaster requested the BEEO to reissue the service book to the petitioner as the same was missing from his custody.

4. The petitioner being aggrieved by the non-issuance of the service book and also for not providing all the service benefits including the revised time scale of pay as entitled under law and other service benefits as provided under the ACPS/MACPS schemes, has instituted the instant writ petition seeking for a mandamus.

5. It appears that vide an order dated 07/11/2022 the instruction was sought for from the respondents to apprise the status of re-construction of the service book of the petitioner and the matter was fixed on 15/12/2022. On 15/12/2022, Mr. B. Kaushik, the learned standing counsel for the Elementary Education Department sought for further time to get the relevant instructions in that regard and accordingly the matter has been listed today.

6. Mr. B. Kaushik, the learned standing counsel appearing on behalf of the

Elementary Education Department submitted that as per the report of the DEEO, Goalpara, Sonaulah Sk. had submitted a petition to the office of the DEEO regarding missing of the service book on 03/03/2022. It has been mentioned that the DEEO, Goalpara had issued a show cause notice to the Headmaster of the school of the petitioner on 25/04/2022 based on the complaint of the petitioner. The Headmaster had submitted a reply of the show cause on 06/05/2022 along with the police report at the Baguan Police Station regarding missing of the service book of the petitioner. It further transpires from the instruction that the BEEO, Goalpara, had issued explanation letter to the Headmaster of the school of the petitioner due to non-satisfactory reply to the show cause submitted by the Headmaster of the school of the petitioner. However, the Headmaster has not submitted any reply to the same for which the DEEO, Goalpara had issued order to the BEEO, Balijana on 22/07/2022 to hold up the monthly salary of the Headmaster of the petitioner school.

Mr. B. Kaushik had further submitted that a direction may be given to the BEEO, Goalpara for reconstruction of the service book after taking note of the service records of the petitioner, inasmuch as the petitioner is entitled to the service book statutorily.

7. Upon hearing the learned counsel for the parties and upon perusal of the materials on record including the instructions so furnished by Mr. B. Kaushik, standing counsel appearing for the Elementary Education Department, this Court directs the respondent No. 3 i.e. the District Elementary Education Officer, Goalpara to reconstruct the service book of the petitioner on the basis of the materials available in the records by providing all the service benefits including the revised time scale of pay as well as other service benefits as provided under the ACPS/MACPS schemes after making necessary verification as regards the

entitlement to the service benefits.

8. The said exercise be carried out within a period of 3(three) months from the date a certified copy of the instant order is served upon the respondent No. 3.

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

JUDGE

Comparing Assistant