

GAHC010219412023



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

Case No. : WP(C)/5987/2023

SMTI SUBHADRA TAMULI AND 3 ORS
W/O NARAYAN SAIKIA,
ASSISTANT TEACHER, JOYPUR PICHALA LP SCHOOL,
UNDER BEEO, NARAYANPUR,
R/O- VILL.- JOYPUR PICHALA, P.O.- BHOGPUR CHARIALI,
NARAYANPUR, DIST.- LAKHIMPUR,
PIN- 787033.

2: MAHIM DEBJIT SAIKIA
S/O- RATAN SAIKIA

ASSISTANT TEACHER
RONGPUR BETONI LP SCHOOL

UNDER BEEO
NARAYANPUR

R/O- MURHANI DANGIA
MADHAVPUR

DIST.- LAKHIMPUR
ASSAM

PIN- 784164.

3: DEVA KUMARI DOLEY SAIKIA
W/O- LATE PUMANANDA DOLEY

ASSISTANT TEACHER
NO. 2 RAMPUR LP SCHOOL

UNDER BEEO
NARAYANPUR

R/O- NO. 2 RAMPUR
LAKHIMPUR

ASSAM
PIN- 784165.

4: TANKESWAR BHUYAN
S/O- JIBA BHUYAN

ASSISTANT TEACHER
DIKRONG CHAPORI LP SCHOOL

UNDER BEEO NARAYANPUR

R/O- VILL. AND P.O.- PATHALI PAHAR

DIST.- LAKHIMPUR
ASSAM
PIN- 784163

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY EDUCATION),
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

NORTH LAKHIMPUR
ASSAM.

4:THE DEPUTY INSPECTOR OF SCHOOLS
NORTH LAKHIMPUR
DIST.- NORTH LAKHIMPUR
ASSAM.

5:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
ASSAM CIVIL SECRETARIAT
DISPUR

GUWAHATI

ASSAM
PIN- 781006.

6:THE DIRECTOR OF PENSION
ASSAM
HOUSEFED COMPLEX
DISPUR

GUWAHATI
ASSAM
PIN- 781006.

7:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
GUWAHATI
ASSAM

PIN- 781029

Advocate for the Petitioner : MR. A K DUTTA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 11.10.2023

Heard Mr. B.Purkayastha, learned counsel for the petitioners. Also heard Mr. P.K.Bora, learned standing counsel, Elementary Education Department for the respondent Nos. 1 to 3; Mr. A.Chaliha, learned standing counsel, Finance Department for the respondent No.4; Ms. D.D.Barman, learned Govt. Advocate for the respondent No.5 and Mr. B.Chakraborty, learned standing counsel, Accountant General for the respondent No.6.

2. The issue involved in this matter is with regard to grant of Old Pension

Scheme to the Stipendiary Assistant Teachers of Lower Primary Schools under the DEEO, North Lakhimpur and Deputy Inspector of Schools, North Lakhimpur. As the issue involved is covered by Judgment of this Court in the case of *Purnima Hore and Anr. Vs. State of Assam reported in 2023 SCC Online Gau 1165*, the present writ petition is taken up for disposal at the motion stage.

3. The petitioner herein claims to be Stipendiary Assistant Teachers who have been denied the benefits of Old Pension Scheme under the Assam Service (Pension) Rules, 1969 (Rules of 1969 in short) on the ground that their regular scale of pay were given to them after 20th of October, 2012.

4. This Court in the case of *Purnima Hore(supra)* held that the teachers who come within the fold of Stipendiary Teachers are entitled to the benefit under the Rules of 1969 and they are not covered under the New Defined Contributory Pension Scheme, 2009. It was also held that those teachers would also be entitled to subscribe to the GPF and would also be entitled to all other pensionary benefits to which a Govt. servant of corresponding rank is entitled to. This Court further finds it relevant to refer to paragraph 123(x) whereby a direction was issued to the respondent authorities to grant the benefit of pension in terms with the Rules of 1969 as well as allow such persons to subscribe to the fund in terms with the General Provident Fund (Assam Service) Rules, 1937 after completing necessary verification in that regard. Sub-Paragraph (x) of 123 of the judgment in the case of *Purnima Hore(supra)* is reproduced herein under :

“123(x) This Court further is of the opinion that the persons similarly situated to that

of the writ petitioners coming within the category of Stipendiary Teachers, but who have not been able to approach this Court on account of various reasons need not be deprived of the benefits of pension in terms with the Rules of 1969 as well as to subscribe to the fund in terms with General Provident Fund (Assam Service) Rules, 1937. This Court, therefore, directs the respondent authorities to grant the benefits of pension in terms with the Rules of 1969 as well as to allow such persons to subscribe to the fund in terms with the General Provident Fund (Assam Service) Rules, 1937 after completing the necessary verification in that regard. The same may be done within a period of 6 (six) months from the date of the instant judgment."

5. Taking into account the above, this Court also finds that the said judgment would be squarely applicable in the case of the petitioners, however subject to verifications.
6. Accordingly, this Court disposes off the writ petition thereby directing the respondent authorities to verify the documents as regards the appointment of the petitioners as Stipendiary Teachers which has to be prior to 1/2/2005 and thereupon after making necessary verification and if it is found that the petitioners fall within the ambit of the Stipendiary Teachers and not granted the benefit of the pension under the Rules of 1969 on the ground that regular scale of pay was given to them after 1/2/2005, the petitioners should be granted the benefits of the pension in terms with the Rules of 1969 as well as also permit the petitioners to subscribe to the fund in terms with the General Provident Fund (Assam Service) Rules, 1937. The same may be done within a period of 4(four) months from the date a certified copy of the instant order alongwith the necessary documents evidencing that the petitioners are Stipendiary Teachers who were appointed prior to 1/2/2005

are submitted to the respondent No. 1.

7. While granting the benefits to the petitioners, if so entitled under the Rules of 1969, the amounts which have been paid by the Government in terms of NDCPS, 2009 be deducted while granting the benefits. Accordingly, the respondent authorities while granting the benefits of Old Pension Scheme to the petitioners upon being found entitled shall deduct the said amount so paid by the Government in terms with the NDCPS, 2009.

8. With the aforesaid observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant