

GAHC010237992023



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

Case No. : WP(C)/6787/2023

DILIP DAS AND 4 ORS
SON OF LATE NABIN CHANDRA DAS,
RESIDENT OF VILLAGE AND P.O.- PATHSALA TOWN, WARD NO. 4,
P.S.- PATACHARKUCHI, DISTRICT- BAJALI,
ASSAM, PIN- 781325.

2: SANATAN TALUKDAR
SON OF LATE KALICHARAN TALUKDAR

RESIDENT OF VILLAGE AND P.O.- PATHSALA TOWN
WARD NO. 3

P.S.- PATACHARKUCHI
DISTRICT- BAJALI

ASSAM

3: KISHOR LAHKAR
SON OF LATE SADANANDA LAHKAR

RESIDENT OF VILLAGE AND P.O.- PATHSALA TOWN
WARD NO. 1

P.S.- PATACHARKUCHI
DISTRICT- BAJALI

ASSAM

4: MANDIRA TALUKDAR
WIFE OF SRI RAJEN ROY

RESIDENT OF VILLAGE AND P.O.- PATHSALA TOWN
WARD NO. 3

P.S.- PATACHARKUCHI
DISTRICT- BAJALI

ASSAM.

5: TANKESWAR CHOUDHURY
SON OF LATE NARAYAN CHOUDHURY
RESIDENT OF VILLAGE AND P.O.- BARBANG (KANDOPARA)

P.S.- PATACHARKUCHI

DISTRICT- BAJALI
ASSAM

VERSUS

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

2: THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19
DISTRICT- KAMRUP(M)
ASSAM.

3: THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
DISTRICT- BARPETA
ASSAM

PIN- 781301.

4: THE BLOCK ELEMENTARY EDUCATION OFFICER
BAJALI
DISTRICT- BAJALI
ASSAM
PIN- 781325.

5: THE DEPUTY INSPECTOR OF SCHOOLS
BAJALI
DISTRICT- BAJALI
ASSAM
PIN- 781325.

6: THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM

FINANCE (BUDGET) DEPARTMENT
DISPUR
GUWAHATI-6.

7:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

18.12.2023

Heard Mr. R. Sarma, learned counsel for the petitioners. Also heard Ms. S. Chutia, learned Standing Counsel, Elementary Education Department and Mr. P. Nayak, learned Standing Counsel, Finance Department.

2. The petitioners herein were selected by the Selection Board and approved by the Sub Divisional Level Advisory Board for Elementary Education, Bajali Sub Division, Pathsala in its meeting held on 31.10.1995 and their names appear at Sl No. 4 (resolution no.3), 9, 11 (resolution no.2), 7 & 11 (resolution no.3) respectively. As the petitioners were not appointed, they along with other similarly situated selected candidates instituted WP(C) No. 5943/1999 which

was given a final consideration by the order dated 08.02.2001 with a direction to the respondents to make appointment amongst the selected candidates against 40 sanctioned posts and 12 vacant posts, which were available. In the resultant process, the petitioners were appointed as per the orders of appointment dated 28.03.2001, but the appointments issued to the petitioners were as stipendiary teachers with a requirement that they would have to pass out the Junior Basic Training course and thereafter the regular appointments would follow.

3. The petitioners successfully completed the Junior Basic Training Course on 12.01.2011 and thereafter the order of regular appointment dated 19.04.2011 was passed in respect of the petitioner nos. 2, 3, 4 & 5 and the appointment order dated 22.06.2011 was passed in respect of the petitioner No.1. Under such circumstance, as the regular appointments of the petitioners were subsequent to 01.02.2005, therefore, they are placed under the New Defined Pension Scheme.

4. The grievance raised by the petitioners is that some other similarly situated appointees like the petitioners had approached this Court by way of WP(C) No. 5923/2012, wherein an order dated 06.06.2017 was passed requiring the Principal Secretary to the Government of Assam in the Elementary Education

Department to give a due consideration to the claim of the petitioners therein by taking into consideration the aspect that it was not the fault of the petitioners that they were appointed as stipendiary teachers in the year 2001 and thereafter regularly appointed in the year 2011 after having successfully completed the Junior Basic Training course inasmuch as, their entitlement to be appointed flowed from the select list which was approved on 31.10.1995.

5. In the resultant process, the petitioners of WP(C) No. 5923/2012 were given the benefit of being placed under the Old Pension Scheme as per the order of the Principal Secretary to the Government of Assam in the Finance and Budget Department dated 10.01.2018. In this respect the petitioners have also filed a representation on 02.04.2022 before the Principal Secretary, Government of Assam, Finance (Budget) department as well as the Director of Elementary Education, Kahilipara. However, the same has not been disposed of. The petitioners claim parity to the said other appointees who were given the benefit as indicated above and their grievance having not being redressed, they have instituted this writ petition.

6. As the petitioners claim parity with the other appointees who were given the benefit of being placed under the Old Pension Scheme, the Principal Secretary, Finance (Budget) Department will pass appropriate orders in respect of the

representation filed by the petitioners on 02.04.2022 by calling for necessary reports. Any such speaking order that is passed, copies thereof shall be served to the petitioners. This exercise shall be completed within a period of 60 (sixty) days from the date of receipt of a certified copy of this order.

The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant