

GAHC010005332024



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

Case No. : WP(C)/151/2024

SATISH KAKATI
SUBJECT TEACHER, RANGIA HIGHER SECONDARY SCHOOL, S/O-
RADHIKA NANDA KAKATI, R/O- VILL.- MURARA, P.O. AND P.S. RANGIA,
DISTRICT- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION DEPARTMENT, DISPUR,
GUWAHATI- 781006

2:THE DIRECTOR SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI- 781019

3:THE INSPECTOR OF SCHOOL KAMRUP DISTRICT CIRCLE KAMRUP
AMINGAON ASSAM PIN- 781031

4:THE TREASURY OFFICER RANGIA DISTRICT- KAMRUP ASSAM

5:PRINCIPAL RANGIA HIGHER SECONDARY SCHOOL
RANGIA DISTRICT- KAMRUP ASSAM PIN- 78135

Advocate for the Petitioner : MR H DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 12.02.2024

Heard Mr. H. Das, learned counsel for the petitioner. Also heard Ms. P. Das,
learned standing counsel, Secondary Education Department, appearing on behalf of

respondents No. 1, 2, 3 & 5; and Ms. A. Borthakur, learned counsel, appearing on behalf of respondent No. 4.

The petitioner by way of instituting the present writ petition, has raised a grievance with regard to the action on the part of the respondent authorities in deducting his earned leave account towards the medical leave as authorized to him by the authorities for treatment of the ailment suffered by him.

It is the case of the petitioner that he was required to be granted “commuted leave” on medical ground but the respondent authorities has caused prejudice to him in-as-much as he had since retired from his services on attaining the age of superannuation on 31.01.2024 and the leave encashment due to him, would be drastically reduced on account of such deduction made against his earned leave account towards sanctioning the medical leave availed by him.

Ms. P. Das, learned standing counsel, Secondary Education Department, has submitted that in terms of the Revised Leave Rules, 1934, the petitioner being a member of the vacation Department, is not entitled to half pay leave and the 20 days half pay leave is now credited to his account in the form of 10 days earned leave every year.

In that view of the matter, the petitioner’s leave account not being credited half pay leaves, the commuted leave which is also to be deducted against the half pay leave; the petitioner may not be in a position to avail the commuted leave. Accordingly, the action on the part of the respondent authorities in deducting the earned leave account of the petitioner towards regularizing the leave taken by him on medical grounds may not be erroneous.

However, the petitioner having retired from his services on attaining the age of superannuation on 31.01.2024, this writ petition is hereby disposed of by directing the petitioner to prefer an appeal before the Director, Secondary Education Department, with justifications as to why he should be granted the commuted leave and the deductions made from his earned leave account, be re-credited facilitating him to avail leave encashments for the said period also.

The Director, Secondary Education Department, on receipt of such an appeal from the petitioner, shall consider the same in the light of the Revised Leave Rules of 1934, and thereafter, pass a speaking order disposing of the same. The speaking order shall be communicated to the petitioner.

The said exercise shall be carried-out and concluded within a period of 1(one) month from the date of receipt of a certified copy of this order along with the said appeal directed to be preferred by the petitioner.

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

JUDGE

Comparing Assistant