

GAHC010034572024



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

Case No. : WP(C)/928/2024

MUSSTT. HAFIZA AHMED
WIFE OF LATE HARUN RASHID, RESIDENT OF VILLAGE GERUAHATI, P.O.
GERUAHATI BAZAR, P.S. RUPAHIHAT, DIST.- NAGAON, ASSAM, PIN- 782140

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION DEPARTMENT (ELEMENTARY),
DISPUR, GUWAHATI-6, DISTRICT- KAMRUP (M), ASSAM

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

3:THE DEPUTY DIRECTOR
ELEMENTARY EDUCATION
ASSAM
OFFICE OF THE DIRECTOR
ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI- 19
DISTRICT- KAMRUP (M)
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON

5:THE BLOCK ELEMENTARY EDUCATION OFFICER

LAWKHOWA
NAGAON
ASSAM

6:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6
DISTRICT- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

26.02.2024

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Ms. S. Konwary, learned Standing Counsel, Elementary Education for the respondents No. 1 to 5 and Mr. P Nayak, learned Standing Counsel, Finance for the respondent No. 6.

2. This writ petition is preferred with a limited prayer for release of the payment of arrear salary to the writ petitioner.

3. The facts involved in this case have been described in the order dated 17.04.2017 passed in W.P.(C) No. 585/2017 whereby the writ petition preferred by the petitioner earlier stood disposed of with a specific direction to the respondents to pay the current salary as well as the arrear salary. The directions passed in the writ petition are extracted as under:

“Accordingly, a writ of mandamus is issued to the respondents to pay the current

salary of the petitioner from the month of May, 2017. The arrear payment of salary to the petitioner from 13.09.2012 shall be made by 31st July, 2017. If the payment aforesaid is not made in terms of the directions above, the petitioner will be entitled to interest @ 6% from 13.09.2012, to be paid by the current incumbents, who are arrayed as respondent Nos.1 to 5 in this petition."

- 4.** It is submitted that although the current salary has been paid but the arrear salary has not been released and no information was forthcoming from the respondents as to why the arrear salary has not been received.
- 5.** The learned Standing Counsel, Elementary Education department submits that no appeal or review has been filed against the order dated 17.04.2017 passed in W.P.(C) No.585/2017.
- 6.** Upon submissions of the learned counsel for the parties and upon careful perusal of the writ petition as well as order dated 17.04.2017 passed in W.P.(C) No. 585/2017 by a Co-ordinate Bench, this Court is of view that there is a writ of mandamus issued to the respondents to pay the current salary as well as the arrear salary for the period and if the payment is not made then the petitioner was held to be entitled to an interest of 6% from 13.09.2012 to be paid.
- 7.** In spite of such clear and specific directions, although the current salary was released, the arrear salary has not been paid.
- 8.** Under such circumstances, this Court finds that where a writ of mandamus has already been issued, no further writ is called for in this matter. However, considering the fact that the current salary has already been released, we permit further 60(sixty) days time to release the arrear as directed in terms of the order dated 17.04.2017 passed in W.P.(C) No. 585/2017 by a Co-ordinate Bench.
- 9.** It is made clear that since the arrear salary of the petitioner has not been

released by 31.07.2017, the petitioner would be entitled to an interest of 6% from 13.09.2012 to be paid in respect of the arrear salary as directed by this Court by order dated 17.04.2017 passed in W.P.(C) No. 585/2017.

10. The authorities will comply with this order within a period of 60 (Sixty) days from the date of receipt of a certified copy of this order to be placed before the respondent authorities. The authorities will verify the claims of the petitioner within the said period and thereafter release the same.

11. The writ petition is, accordingly, disposed of in terms of the above.

JUDGE

Comparing Assistant