

GAHC010069722023



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

Case No. : WP(C)/1935/2023

JOGEN BORUAH
S/O- LATE MOHIRAM BORUAH,
R/O- VILLAGE LAKHI NEPALI BASTI,
P.O. AND P.S.- JONAI,
DISTRICT- DHEMAJI, ASSAM,
PIN- 787060.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT OF ASSAM,
ASSAM SECRETARIAT, DISPUR,
GUWAHATI, ASSAM, PIN- 781006.

2:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA

GUWAHATI
ASSAM
PIN- 781029.

3:SENIOR ACCOUNTS OFFICER

O/O THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM

MAIDAMGAON
BELTOLA

GUWAHATI
ASSAM
PIN- 781029.

4:THE TREASURY OFFICER
JONAI
DISTRICT- DHEMAJI
ASSAM

PIN- 787060.

5:THE DIRECTOR OF HIGHER EDUCATION

DIRECTORATE OF HIGHER EDUCATION
ASSAM

KAHILIPARA
GUWAHATI

ASSAM. PIN- 781019.

6:MURKONG SELEK COLLEGE
REPRESENTED BY ITS PRINCIPAL

JONAI
DISTRICT- DHEMAJI
ASSAM.
PIN- 787060

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 29.05.2024

Heard Mr. D. Gogoi, learned counsel for the petitioner. Also heard Mr. D. Upamainya, learned standing counsel, Higher Education Department for the respondent Nos. 1 and 5; Mr. B. Chakraborty, learned standing counsel, Accountant

General for the respondent Nos. 2 and 3 and Mr. A. Chaliha, learned standing counsel, Finance Department for the respondent No.4.

2. The petitioner retired as a Library Bearer from Murkong Selek College on 30.06.2022. By this writ petition, petitioner is challenging the communication dated 13.10.2022 issued by the Senior Accounts Officer, Office of the Principal Accountant General (A&E), Assam and addressed to the Treasury Officer, Jonai by which a recovery of Rs. 4,55,100/- was made by deducting from the death cum retirement gratuity payable to the petitioner on the ground of overpayment of pay and allowances.

3. The petitioner seeks for a direction to the respondent authorities to refund the amount of Rs. 4,55,100/- which was deducted from the death cum retirement gratuity on the ground of excess overpayment of pay and allowance. It is the case of the petitioner that he retired on 30.06.2022 and in view of the decision of the Hon'ble Supreme Court in the case of State of Punjab Vs. Rafik Masih and Ors. reported in 2015 4 SCC 334 and also in terms of the Office Memorandum dated 14.06.2019, issued by the State Government, the deducted amount from the death cum retirement gratuity payable to the petitioner should be refunded back to him.

4. Mr. D. Upamainya, learned standing counsel, Higher Education Department submits that the director of Higher Education Department by a communication dated 21.05.2024 addressed to the Principal Murkong Selek College, Jonai district Dhemaji have requested to take necessary action to refund the over drawal amount of Rs. 4,55,100/- which was already deducted from the death cum retirement gratuity payable to the petitioner who retired as a Library Bearer of the

said college. He therefore submits that the present writ petition may be closed by giving a direction to the Principal of Murkong Selek College to take appropriate steps in response to the Communication dated 21.05.2024 written by the Director of Higher Education Assam.

5. Recording the submission made by the learned standing counsel, Higher Education Department, this writ petition is disposed of directing the Principal, Murkong Selek College, Jonai, district Dhemaji to submit the proposal for refund of the deducted amount of Rs. 4,55,100/- to the Director of Higher Education, Assam within a period of 2(two) weeks from the date of receipt of a certified copy of this order. Thereafter, Director of Higher Education on receipt of the proposal shall take necessary steps as may be required to refund the deducted amount of Rs. 4,55,100/- to the petitioner.

6. Let such exercise be taken and completed within a period of 3(three) months from the date of receipt of the proposal sent by the Principal of Murkong Selek College, Jonai, District Dhemaji.

7. The Communication dated 21.05.2024 is placed on record.

8. Writ petition is disposed of.

JUDGE

Comparing Assistant