

GAHC010185102024



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

Case No. : I.A.(Civil)/3131/2024
in WA No.10377/2024 (Filing Number)

1.ABDUL MALEK AND 22 ORS
S/O- ABUL HUSSAIN, R/O- MANDALPARA, P.O. GHANSIMULI, PIN- 784115,
DIST. DARRANG, ASSAM, ASSISTANT TEACHER AT BAHABARI M.E.M.

2: ZAKIR HUSSAIN
S/O- CHAND MIAH
R/O- ALIKASH P.O. GHANSIMULI
PIN- 784115 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT SIALMARI HIGH SCHOOL (AMALGAMATED).

3: EKRAM HUSSAIN
S/O- ABDUL KUDDUSH
R/O- BAHABARI P.O. KHARUPETIA
PIN- 784115 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT BAHABARI M.E.M.

4: MAMTAZ BEGUM
D/O- NURUL ISLAM
R/O- BAHABARI P.O. KHARUPETIA
PIN-784115 DIST.DARRANG ASSAM
ASSISTANT TEACHER AT BAHABARI M.E.M.

5: PRADIP BISWAS
S/O- LATE SHYAM CH. BISWAS
R/O- PANBARI ROAD W.NO. 10
P.O. KHARUPETIA PIN-784115
DIST- DARRANG (ASSAM)
ASSISTANT TEACHER AT THAKURPATTY L.P. SCHOOL (KHARUPETIA).

6: ALI HUSSAIN
S/O- AZIZUL HOQUE
R/O- ALIKASH P.O. GHANSIMULI
PIN-784115 DIST- DARRANG ASSAM

ASSISTANT TEACHER AT KAMARPARA M.S. MADRASSA.

7: MAHMUDA BEGUM
D/O- PIAR ALI
R/O- SILBORI P.O. SILBORI
PIN-784114 DIST- DARRANG ASSAM
ASSISTANT TEACHER AT SIRAJUL HOQUE HIGH
SCHOOL(AMALGAMATED).

8: AULAD HUSSAIN
S/O- MUSARAF HUSSAIN
R/O- KONAKATAPARA P.O. DALGAON
PIN- 784116 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT KHARUPETIA TOEN HINDI M.E. SCHOOL.

9: IBRAHIM ALI
S/O- ALI AKBAR
R/O- NAGAJAN P.O. KHARUPETIA
PIN-784115 DIST- DARRANG ASSAM
ASSISTANT TEACHER AT KHARUPETIA ADARSH HINDI M.E. SCHOOL.

10: ABDUS SAMAD
S/O- BUDU SHEIKH
R/O- MADHUPUR P.O. LALPOOL
PIN-784514 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT DAKHIN NIZ BARUAJHAR L.P. SCHOOL.

11: ABDUL KALAM AZAD
S/O- AHMED ALI
R/O- ALISINGA JANGAL P.O. LALPOOL
PIN- 784514 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT KALYAN BARUAJHAR L.P. SCHOOL.

12: EUSUF ALI
S/O- LATE ABDUL HAMID
R/O- NADIRMU KH P.O. KHARUPETIA
PIN- 784115 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT BECHIMARI H.S. SCHOOL (AMALGAMATED).

13: SALEHA KHATUN
W/O- MD. IBRAHIM ALI
R/O- KHETACHAR P.O. KHARUPETIA
PIN-784115 DIST. DARRANG ASSAM
HEAD MASTER AT NO.2 ARIMARI L.P. SCHOOL.

14: ABDUL HAI
S/O- ABDUL HUSSAIN
R/O- NAGAJAN P.O. KHARUPETIA

PIN- 784115 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT 52 NO. BAGICHA KASH L.P. SCHOOL.

15: MD. MUBARAK ALI
S/O- MD. RAJAB ALI
R/O- BORANGABARI P.O. JANGALPARA
PIN- 784116 DIST. DARRANG ASSAM
HEAD MASTER AT NO.2 MAGURMARI M.V.S
BORANGABARI LP. SCHOOL.

16: ISLAM UDDIN
S/O- ABDUL SEIKH
R/O- GHANSIMULI P.O. GHANSIMULI
PIN- 784115 DIST. DARRANG ASSAM
HEAD MASTER AT KHAKJANI L.P. SCHOOL.

17: SAILEN CHANDRA GHOSH
S/O- LATE SURESH CHANDRA GHOSH
R/O- BALAGARAH P.O. KHARUPETIA
PIN-784115 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT TAPOBAN M. E. SCHOOL.

18: KRISHNA KANTA MAJUMDAR
S/O- LATE JAGADISH CHANDRA MAJUMDAR
R/O- DALGAON P.O. DALGAON
PIN-784116 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT DONGPARA L.P. SCHOOL.

19: AJMALA BEGUM
W/O- HATEM UDDIN AHMED
R/O- GADAIJHAR P.O. DALGAON
PIN-784116 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT KHETASWAR L.P. SCHOOL.

20: MD. MUSA ALI
S/O- MOKJER ALI
R/O- KONAKATAPARA P.O. DALGAON
PIN-784116 DIST. DARRANG ASSAM
HEAD MASTER AT KONAKATAPARA L.P. SCHOOL.

21: KABAJ ALI
S/O- SHAHAB ALI
R/O- ISLAMPUR P.O. DALGAON
PIN-784116 DIST. DARRANG ASSAM
HEAD MASTER AT NC BAGHMARI L.P. SCHOOL.

22: MD. KISMAT ALI
S/O- LATE AZIZUL HOQUE

R/O- BARUAJHAR P.O. BECHIMARI
PIN- 784114 DIST. DARRANG ASSAM
ASSISTANT TEACHER AT CHANDPUR L.P. SCHOOL.

23: SURUJ ALI
S/O- LATE JAINAL ABDIN
R/O- SILBORI P.O. SILBORI
PIN- 784113 DIST. DARRANG ASSAM
HEAD MASTER AT NO.3 KACHARI VETI TOP L.P. SCHOOL.

24: SEKANDAR ALI
S/O- SAHAR ALI
R/O- NALBARI P.O. SILBORI
PIN-784113 DIST. DARRANG ASSAM
HEAD MASTER AT NALBARI L.P. SCHOOL

VERSUS

1.THE STATE OF ASSAM AND 8 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, SECONDARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM ELEMENTARY EDUCATION DEPARTMENT
DISPUR GUWAHATI-06

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT. DISPUR
GUWAHATI-06

4:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR GUWAHATI-06

5:THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI-19.

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

7:DISTRICT ELEMENTARY EDUCATION OFFICER DARRANG
P.O AND DISTRICT- DARRANG PIN-784529 ASSAM.

8:THE INSPECTOR OF SCHOOLS DARRANG DISTRICT CIRCLE
P.O AND DISTRICT- DARRANG ASSAM PIN-784529.

9:THE DEPUTY INSPECTOR OF SCHOOLS
DARRANG DISTRICT CIRCLE
P.O AND DISTRICT- DARRANG
ASSAM PIN-784529

For the Applicant(s) : Mr. N. Borah, Advocate.
For the Respondent(s) : Mr. R. Mazumdar, Standing Counsel, Elementary Education
Department.

– **BEFORE** –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

02.12.2024
(Vijay Bishnoi, CJ)

The matter come upon for consideration of the present Interlocutory Application filed on behalf of the applicants with a prayer to condone the delay of 493 days occasioned in preferring the connected writ appeal.

Mr. N. Borah, learned Counsel appearing for the applicants has submitted that the learned Single Judge of this Court had decided a bunch of writ petitions by a common judgment and order and aggrieved with the same, some other employees, who are similarly situated to the present applicants/appellants, approached the Division Bench of this Court by way of filing WA No.188/2023 and other analogous writ appeals and the said writ appeals came to be disposed vide order dated 26.07.2024 passed by the Division Bench, whereby it was observed that in view of the subsequent decision of the State Government to consider the demand of the employees, who were, though appointed after 2005 but the recruitment process in respect of the concerned posts had started prior to January, 2005, it would be appropriate to dispose of the appeals awaiting the decision of the State Government on this issue.

The Division Bench had also made it clear that if the appellants failed to get any

favourable decision from the State Government, they would be free to approach this Court by filing fresh writ petitions. The Division Bench also directed the State Government to take a decision expeditiously, preferably, within a period of 6(six) months from the date of receipt of a certified copy of the order.

Learned counsel for the applicants has submitted that the cases of the present applicants are similar to the appellants in writ appeal in WA No.188/2023 and analogous writ appeals.

Learned counsel appearing for the respondent State is not in a position to dispute the said factual position.

Heard the learned counsel appearing for the parties.

In the order dated 26.07.2024, the Division Bench held as under:

“In view of the above development, we are of the view that once the State Government has decided to consider the demand of the employees, who were though appointed after 2005 wherein, the recruitment process of the concerned posts were started prior to January, 2005, despite the order passed by the learned Single Judge, it would be appropriate to dispose of these appeals, awaiting the decision of the State Government on this issue.

It is made clear that if the appellants failed to get any favourable decision from the State Government, they are free to approach this Court again by filing fresh writ appeals.

We hope that the Government shall take a decision expeditiously, preferably within a period of 6 (six) months from the date of receipt of a certified copy of this order.”

Having taken into consideration the above facts and circumstances of the case, we are of the view that the delay of 493 days, occasioned in filing the connected writ appeal, is liable to be condoned. Hence, the present application is allowed and the delay of 493 days in filing the connected writ appeal is condoned.

The Registry is directed to register the connected writ appeal immediately.

Having taken note of the above facts and circumstances of the case, we are of

the view that the connected writ appeal, preferred on behalf of the applicants, is liable to disposed of in terms of the order dated 26.07.2024 passed by the Division Bench in WA No.188/2023 and other analogous writ appeals.

We hereby order that after registration of the connected writ appeal, the same be treated as disposed of in terms of the order dated 26.07.2024 passed by the Division Bench in WA No.188/2023 and other analogous writ appeals.

However, it is made clear that the time period of 6(six) months, granted by this Court vide order dated 26.07.2024 passed in WA No.188/2023 and other analogous writ appeals, shall start in the case of the present applicants from the date of production of a certified copy of this order.

JUDGE

CHIEF JUSTICE

Comparing Assistant