

GAHC010222552024



2024:GAU-AS:12101

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

Case No. : WP(C)/5523/2024

JADU BORUAH AND 11 ORS
SRI JADU BARUAH,
S/O LATE SADA BARUAH,
AGED ABOUT 51 YEARS,
R/O - BASBARI GAON,
P.O - KOLA KHOWA CHARIALI,
DISTRICT- DIBRUGARH, ASSAM,
PIN - 876007.
ASSISTANT TEACHER AT BORDOI BAM M.E SCHOOL.

2: SRI PRASANTA KUMAR GOGOI
S/O LATE MUKHESWAR GOGOI
AGED ABOUT 53 YEARS
R/O CHOWKIDINGI UDOIPUR (NEAR COLONY L.P SCHOOL)
P.O - C.R. BUILDING
DIST- DIBRUGARH
ASSAM
PIN- 786003.
ASSISTANT TEACHER AT BAMUNBARI HIGH SCHOOL.

3: SRI SOWNDARJYA KUMAR GOGOI
AGED ABOUT 53 YEARS
S/O LATE THRIESWAR GOGOI
R/O- BAMUNIA HILODHARI GAON
P.O CHETIA GAON (CHABUA)
DIST- DIBRUGARH
ASSAM.
PIN- 786184.
ASSISTANT TEACHER AT MODERKHAT M.E SCHOOL.

4: MRS. SONALI BORUAH
AGED ABOUT 47 YEARS
D/O LATE CHANDRA PRASAD BARUAH
R/O- BAMUNIA HILODHARI GAON

P/O- CHETIA GAON
DIST- DIBRUGARH
ASSAM
PIN- 786184.
ASSISTANT TEACHER AT TIONHZALIA L.P SCHOOL.

5: MRS. RITA PHUKAN
AGED ABOUT 54 YEARS
D/O SRI LOLIT DAS
R/O JERAI RAJA CHOWK KHANJIKHOWA
P.O PANITOLA (KHANJIKHOWA)
DIST- DIBRUGARH
ASSAM.
PIN- 786183.
ASSISTANT TEACHER AT NALANIHULA L.P SCHOOL.

6: MRS. RITUMONI GOGOI
AGED ABOUT 47 YEARS
C/O SRI BIRINCHI KUMAR GOGOI
R/O- MILAN NAGAR
P/O - C.R. BUILDING
P.S. DIBRUGARH
ASSAM
PIN- 786003.
ASSISTANT TEACHER AT LEZAI HIGHER SECONDARY SCHOOL

7: SRI KHAGESWAR DUTTA
AGED ABOUT 52 YEARS
S/O LATE JUGAL DUTTA
R/O- USHAPUR GAON
P.O USHAPUR
DIST- DIBRUGARH
ASSAM
PIN- 786614.
ASSISTANT TEACHER AT TIPAM FAKIAL L.P SCHOOL.

8: MRS. JUNMONI DUTTA
AGED ABOUT 49 YEARS
C/O- DOMBORU BORUAH
R/O- DINJOY GAON
P.O DINJOY SATRA (CHABUA)
DIST- DIBRUGARH
ASSAM
PIN- 786184.
ASSISTANT TEACHER AT RASHTRIYA HINDI H.S SCHOOL

9: SRI ROMEN DAS
AGED ABOUT 54 YEARS

S/O- LATE JAYENSWAR DAS
R/O- BAMINIA HILOIDHARI GAON
P.O- CHETIA GAON (CHABUA)
DIST- DIBRUGARH
ASSAM.
PIN- 786184.
ASSISTANT TEACHER AT RASHTRIYA HINDI H.S SCHOOL.

10: SRI RANJIT SONOWAL
AGED ABOUT 57 YEARS
S/O- LATE BHUBUL SONOWAL
R/O KAMAR GAON
P.O KAMAR GAON
DIST- DIBRUGARH
ASSAM.
PIN- 786614.
ASSISTANT TEACHER AT KAMAR GAON M.E SCHOOL.

11: MRS. MINATI MIPUN
AGED ABOUT 49 YEARS
C/O- SRI DHARMIK DANG
R/O- DODHIA CHARISUTI GAON
P.O MULUK GAON
DIST- DIBRUGARH
ASSAM
PIN-786189.
ASSISTANT TEACHER AT DODHIA M.E SCHOOL.

12: SRI AJIT KUMAR CHETIA
AGED ABOUT 57 YEARS
S/O- LATE LILESWAR CHETIA
R/O- JAMIRAH PATRA GAON
P/O- JAMIRAH
P.S- BARBARUAH
DIST- DIBRUGARH
ASSAM
PIN- 786004.
ASSISTANT TEACHER AT TANTIA HIGH SCHOOL

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED THROUGH THE SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-
781006.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI - 781006
ASSAM.

3:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006
ASSAM.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019
ASSAM.

5:THE INSPECTOR OF SCHOOLS
DIBRUGARH
DISTRICT CIRCLE- ASSAM
P.O AND DISTRICT -DIBRUGARH
ASSAM.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DIBRUGARH ASSAM
P.O AND DISTRICT -DIBRUGARH
ASSAM
PIN- 786003.

7:THE DEPUTY INSPECTOR OF SCHOOLS
DIBRUGARH

8:THE DIRECTOR OF SECONDARY EDUCATION N
KAHILIPARA
GUWAHATI-1

Advocate for the Petitioner : MR B D DAS, MR. H R DAS,MR D BANIA,MRS R DEKA

Advocate for the Respondent : SC, ELEM. EDU, SC, FINANCE,SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 02.12.2024

Heard Mr. B. D. Das, learned Senior Counsel assisted by Mr. D. Bania, learned counsel for the petitioners.

2. Ms. S. Chutia, learned Standing Counsel, appears for the Elementary Education Department; Mr. U. Sharma, learned Standing Counsel, appears for the Secondary Education Department and Mr. R. Borpujari, learned Standing Counsel, appears on behalf of the Finance Department.

3. Similarly situated persons like the present petitioners had earlier approached this Court by filling WP(C) No. 4892/2021 and other connected writ petitions seeking for a declaration that they are entitled to the Old Pension Scheme and not the New Pension Scheme. The said writ petitions were dismissed by Judgment & Order dated 31.03.2023, holding that the petitioners therein were not entitled to get pensions under the Old Pension Scheme.

4. Being aggrieved, those petitioners filed Writ Appeal before the Hon'ble Division Bench and the lead case was registered as WA No. 188/2023. The Writ Appeals were accordingly, disposed of on 26.07.2024 with the following observations and directions:-

“It is informed that in a meeting took place between the Hon'ble Chief Minister of Assam with Assam Karmachari Parisahd, held on 15/03/2024, it is decided that the Government of Assam will consider extending the benefit of old pension scheme to those employees who joined the Government services after January, 2005

but the recruitment process of the concerned post was started prior to January, 2005 in line with the Office Memorandum issued by the Central Government.

Learned counsel for the appellants has submitted that all the appellants were appointed in the year 2001 and, therefore, their case comes within the ambit of aforesaid decision of the meeting. It is further submitted that the issue regarding extending the benefit of old pension scheme to those employees, who joined the Government services after 2005 wherein, the recruitment process was started prior to 2005, is pending with the Administrative Department.

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.”

5. The present petitioners before this Court also claim that they are equally situated and circumstanced with the appellants in Writ Appeal No. 188/2023 and other analogous Writ Appeals.

6. This Court, after considering the above facts, is also of the considered opinion that the case of the present petitioners are equally situated and circumstanced with the appellants in Writ Appeal No. 188/2023 and analogous Writ Appeals.

7. Accordingly, this writ petition is also disposed of in terms of the observations and directions made by the Hon'ble Division Bench in Writ Appeal No. 188/2023 by the Order dated 26.07.2024.

8. However, it is made clear that the time period of 6 (six) months granted by the Hon'ble Division Bench by Order dated 26.07.2024 passed in WA No. 188/2023 and other analogous Writ Appeals, shall start in case of the present petitioners from the date of production of a certified copy of the Order of this Court.

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

JUDGE

Comparing Assistant