

GAHC010223332024



2024:GAU-AS:12104

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

Case No. : WP(C)/5529/2024

NASHIR UDDIN AHMED AND 28 ORS
AGED ABOUT 48 YEARS,
S/O. SAHAB UDDIN AHMED,
R/O. VILLAGE BHIMAPARA
P.O. HATSINGIMARI,
DISTRICT SOUTH SALMARA MANKACHAR, ASSAM, PIN CODE 783135
ASSISTANT TEACHER OF CHAR SELAKANDI L.P. SCHOOL

2: AMINUL ISLAM MANDAL
AGED ABOUT 56 YEARS
S/O. SIRAZUL HOQUE MONDAL
R/O. VILLAGE KHALISAMARI
P.O. PIAZBARI
P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
ASSISTANT TEACHER OF PIAZBARI B.M. HIGH SCHOOL
KHALISAMARI (AMALGAMATED)

3: UMME KULSOM
AGED ABOUT 49 YEARS
W/O. BAHARUL ISLAM
R/O. VILLAGE BEPARIPARA
P.O. AND P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF A.A. LATIF GIRLS INSTITUTION
(AMALGAMATED).

4: RINKU DAS
AGED ABOUT 56 YEARS
S/O. LATE BHABANI CHANDRA DAS

R/O. VILLAGE BARMAN PARA
P.O. AND P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF 2 NO. PUBERGAON L.P. SCHOOL

5: MONIRUZZAMAN SARKAR
AGED ABOUT 55 YEARS
S/O. BASHUR UDDIN SARKAR
R/O. VILLAGE DAKUAMARI
P.O. AND P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
ASSISTANT TEACHER OF GOTABARI ME SCHOOL.

6: NIGAMA NANDA HAJONG
AGED ABOUT 32 YEARS
S/O. NITYANANDA HAJONG
R/O. VILLAGE BHANGRA BIL
P.O. KALAPANI
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF 1336 NO. BARMATIA L.P. SCHOOL.

7: SUDHAR HAJONG
AGE 55 YEARS
S/O. SUKESH CHANDRA HAJONG
R/O. VILLAGE DIPKAI DALBARI
P.O. KALAPANI
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
HEAD TEACHER OF 1932 NO. DALBARI L.P. SCHOOL.

8: HAFIZUR RAHMAN SHEIKH
AGED ABOUT 55 YEARS
S/O. ASRAB ALI SHEIKH
R/O. VILLAGE KOKRADANGA PART - III
P.O. KOKRADANGA
P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128

ASSISTANT TEACHER OF SEWRAGURI M.V. SCHOOL.

9: MD NURZAMAN
AGE 51 YEARS
S/O. MD HIKMOT ALI
R/O. VILLAGE FEKAMARI PART II
P.O. KANAIMARA
P.S. SOUTH SALMARA
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF KANAIMARA HIGH SCHOOL
(AMALGAMATED).

10: ABU MOFIAL SHEIKH
AGE 57 YEARS
S/O. LATE MEDU SHEIKH
R/O. VILLAGE FAKIRPARA
P.O. SUKCHAR
P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
HEAD TEACHER OF 1289 NO. FAKIRPARA L.P. SCHOOL

11: MD ABDUL ZOUL
AGE 58 YEARS
S/O. ANSAR ALI
R/O. VILLAGE BHATI JHAGRAR CHAR
P.O. KAKRIPARA
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
HEAD TEACHER OF SADURTILA B L.P. SCHOOL.

12: BISWAJIT GHOSH
AGE 49 YEARS
S/O. NARAYAN CHANDRA GHOSH
R/O. VILLAGE KACHARIPARA
P.O. AND P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF GOUR HARI VIDYAMANDIR M.E. SCHOOL
BORKONA.

13: GONDHARU HAJONG

AGE 53 YEARS
S/O. GOYANATH HAJONG
R/O. VILLAGE NARIBHITA
P.O. KALAPANI
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF CHOMRASALI M.E. SCHOOL.

14: REAZUL ISLAM
AGE 58 YEARS
S/O. GOLAM SARWAR MONDAL
R/O. VILLAGE FEKAMARI
P.O. FEKAMARI
P.S. SOUTH SALMARA
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF FULERCHAR M.E. SCHOOL.

15: SHAHZAMAL AKAND
AGE 51 YEARS
S/O. ABDUL MOZID
R/O. VILLAGE NAYAGAON
P.O. JHOWDANGA
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF JOHWDANGA M.E. SCHOOL

16: LANKESWAR BARMAN
AGE 57 YEARS
S/O. SADARAM BARMAN
R/O. VILLAGE KOKRADANGA PART - III
P.O. KOKRADANGA
P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
ASSISTANT TEACHER OF 142 NO. PECHARKANDI L.P. SCHOOL.

17: NURIZA BEGUM
AGE 57 YEARS
C/O. GOLAM RASUL
R/O. VILLAGE 2 NO. PUBER GAON
P.O. AND P.S. MANKACHAR

DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF 934 NO.
G.C. L.P. SCHOOL.

18: ANIMESH CHANDRA DAS
AGED ABOUT 55 YEARS
S/O. KHAGENDRA CH. KINNOR
R/O. VILLAGE MAHAMAYA NAGAR
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF B.M.B. M.E. SCHOOL
BHUTIADANGA

19: HASINUL ISLAM
AGE 54 YEARS
S/O. REZAUL KARIM
R/O. VILLAGE BHUTIADANGA
P.O. AND P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
ASSISTANT TEACHER OF B.M.B. M.E. SCHOOL
BHUTIADANGA.

20: RIBADUL HOQUE
AGE 56 YEARS
S/O. LATE ABDUL JOUL SARKAR
R/O. VILLAGE DAKERGAON
P.O. AND P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
HEAD TEACHER OF 1940 NO. BHATI JHAGRAR CHAR L.P. SCHOOL.

21: KOSOM ALI
AGE 58 YEARS
S/O. LATE TOFIZ UDDIN
R/O. VILLAGE SADULLABARI
P.O. KALAPANI
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135

HEAD TEACHER OF 2230 NO. BAISHABARI L.P. SCHOOL.

22: MOZAMMEL HOQUE
AGE 53 YEARS
S/O./ LATE ROBI DEWANI
R/O. VILLAGE AND P.O. KALAPANI
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF KALAPANI M.E. SCHOOL.

23: SRI KALPANATH SEAL
AGE 57 YEARS
S/O. LATE PROMOTH CH. SEAL
R/O. VILLAGE AND P.O. DHANUA
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
HEAD TEACHER OF 460 NO. PIPULBARI L.P. SCHOOL.

24: GAUTAM CH. SEAL
AGE 60 YEARS
S/O. LATE RADHA RAMAN SEAL
R/O. VILLAGE AND P.O. PURAN DIARA
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF PURAN DIARA M.E. SCHOOL
(AMALGAMATED).

25: BIHARI LAL HAJONG
AGE 51 YEARS
S/O. LATE BHARAT CH. HAJONG
R/O. VILLAGE JEWALI GAON
P.O. DHANUA
P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
ASSISTANT TEACHER OF JEWALI GAON L.P. SCHOOL.

26: AMZAD HUSSAIN
AGE 49 YEARS
S/O. SHAHER ALI
R/O. VILLAGE SUKCHAR

P.O. AND P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
ASSISTANT TEACHER OF 1791 NO. FARTAPARA L.P. SCHOOL.

27: SOBIR KUMAR DAS
AGE 56 YEARS
S/O. MONOHAR CH. DAS
R/O. VILLAGE TENGNAMARI
P.O. AND P.S. SUKCHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783128
HEAD TEACHER OF BERABHANGA AMALGAMATED L.P. SCHOOL.

28: NURIMA BEGUM
AGE 49 YEARS
C/O. NAZRUL ISLAM
R/O. VILLAGE BHIMAPARA (ISLAMPUR)
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783135
HEAD TEACHER OF 1924 NO. BORAIKANDI L.P.SCHOOL.

29: SHRI DILIP KUMAR GHOSH
AGED ABOUT 56 YEARS
S/O. LATE DEBENDRA CHANDRA GHOSH
R/O. VILLAGE CHOWK BAZAR
P.O. AND P.S. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM
PIN CODE 783131
ASSISTANT TEACHER OF 039 NO. KALORCHAR A.P. SCHOOL

VERSUS

THE STATE OF ASSAM AND 7 ORS
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

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

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 781019

5:THE INSPECTOR OF SCHOOLS
MANKACHAR DISTRICT CIRCLE
ASSAM
P.O. AND DISTRICT MANKACHAR
ASSAM. PIN CODE 783131

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MANKACHAR
P.O. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM. PIN CODE 783131

7:THE DEPUTY INSPECTOR OF SCHOOLS
MANKACHAR
P.O. MANKACHAR
DISTRICT SOUTH SALMARA MANKACHAR
ASSAM. PIN CODE 78313

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

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