

GAHC010231382024



2024:GAU-AS:12109

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

Case No. : WP(C)/5765/2024

AMRIT JYOTI BORAH AND 9 ORS
S/O LT BHOLA BORAH R/O VILL KAMAR CHUBURI P.O P.S TEZPUR DIST
SONITPUR ASSAM PIN 784001 ASSISTANT TEACHER AT MAHA BHAIRAB
HARI SABHA L P SCHOOL

2: NITAI DEBNATH
S/O LT NAGENDRA CH DEBNATH R/O VILL AMOLAPAM P.O NAGAON PIN
784028 DIST SONITPUR ASSAM ASSISTANT TEACHER AT NETAJI M E
SCHOOL

3: BABITA BORA MAHANTA
D/O LT AJIT MAHANTA R/O RUBBER BAGAN HEMNAGAR WARD NO 15 PO
TEZPUR DIST SONITPUR ASSAM PIN 781001 ASSISTANT TEACHER AT
BISHNUJYOTI M E SCHOOL

4: RINTU BORAH
S/O LT GOBIN CH BORAH R/O VILL AND PO DEKARGAON DIST SONITPUR
ASSAM PIN 784501 ASSISTANT TEACHER OF SILVER JUBLEE L P SCHOOL

5: PULIN KEOT
S/O MAHENDRA KEOT R/O KAMER CHUBRI PO AND PS TEZPUR DIST
SONITPUR ASSAM ASSISTANT TEACHER OF BHASA SWAHISCHOOL

6: JAYANTI DUTT PAUL
C/O SANTOSH CH DUTTA P.O TEZPUR PORUWA P.S TEZPUR
MAHABHAIRAB DIST. SONITPUR ASSAM PIN 784001

7: GUNANTA DAS
C/O LT MADHU DAS R/O VILL COTTON ROAD P.O AND PS TEZPUR DIST
SONITPUR ASSAM PIN 784001 ASSISTANT TEACHER AT MAHA BHAIRAB
HARI SABHA L P SCHOOL

8: ANJEL KR BARUAH
S/O SRI DIMA BARUAH R/O VILL MAZGAON PO AND P.S TEZPUR DIST

SONITPUR ASSAM PIN 784001 ASSISTANT TEACHER AT GOPINATH
BORDOLOI M V SCHOOL

9: PULAK SARMAH
S/O LT KALINATH SARMAH R/O VILL SOUTH HAZARAPAAR PARVATI
NAGAR JONAKI PATH P.O AND P.S TEZPUR DIST SONITPUR ASSAM PIN
784001 ASSISTANT TEACHER AT PANCHMILE GIRLS M E SCHOOL

10: DEBAJYOTI GOSWAMI
S/O LT HAREN GOSWAMI R/O VILL HEM NAGAR PO AND PS TEZPUR DIST
SONITPUR ASSAM PIN 784001 ASSISTANT TEACHER AT SURJYODAI M E
SCHOOL

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUGH THE SECRETARY TO THE GOVT OF ASSAM SCHOOL
EDUCATION DEPTT DISPUR GUWAHATI 6

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM FINANCE DEPTT DISPUR GUWAHATI 781006

3:THE ADDITIONAL CHIEF SECRETARY
TO GOVT OF ASSAM FINANCE DEPTT DISPUR GUWHATI 781006

4:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM
KAHIPARA GUWAHATI 781019

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER SONITPUR
ASSAM PIN 784001

6:THE DEPUTY INSPECTOR OF SCHOOLS TEZPUR
P.O TEZPUR DIST SONITPUR ASSAM PIN 78400

Advocate for the Petitioner : MR S DAS, MR. T DEWAN,MS. J GHOSH,MS. U NANDA

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

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

Date : 02.12.2024

Heard Mr. R. Mazumdar, learned counsel for the petitioners.

2. Ms. S. Chutia, learned Standing Counsel, appears for the Elementary 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