

GAHC010265352018



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

Case No. : Cont.Cas(C)/536/2018

DIPAK GOGOI AND ANR.
S/O SRI PANCHASPRASAD GOGOI, R/O- VILL.- MURTIA, SAPOTIA, P.O. AND
DIST.- LAKHIMPUR, ASSAM, PIN- 787001.

2: THANESWAR DOLEY
S/O- LATE BACHA DOLEY
R/O. VILL.- GONDHIA TINIALI
DIST. LAKHIMPUR
ASSAM

VERSUS

SRI NARAYAN KONWAR, IAS AND ANR.
SECRETARY TO THE GOVT. OF ASSAM, HIGHER AND SCHOOL
EDUCATION DEPARTMENT ., DISPUR, GUWAHATI- 781006.

2: SMT SURANJANA SENAPATI
ACS
DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MRS J M KONWAR, MR. R
KALITA, MR. R SALOI, MS. S NEWAR, MS. M K BROWN

Advocate for the Respondent : MR. N J KHATANIAR(R-1), MR B KAUSHIK(R-2), MS K DAS(R-
2), MR. P K BORAH(R-1), MR. D SAIKIA(R-1), MR. K K DUTTA

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

**Date : 07.11.2024
(Vijay Bishnoi, CJ)**

This contempt petition has been filed by the petitioners, complaining that the respondents have not complied with the directions given by the Division Bench of this Court, in the Judgment & Order dated 10.07.2018, passed in WA No. 304/2014.

Vide the Judgment & Order dated 10.07.2018, the Division Bench of this Court has allowed the writ appeal preferred on behalf of the appellants and has directed the State respondents to take back the appellants into the service as Assistant Teachers in their respective schools by passing necessary orders. It is further observed that the appellants are not entitled for the back wages, however, the period without duty shall not be considered as break-in-service and the said periods shall count for the purpose of service benefits, including retirement benefits.

As the aforesaid order has not been complied with by the respondent authorities despite granting several opportunities, ultimately, on 06.11.2024, the contemnors were asked to remain present before this Court. The respondent no. 1 appeared before the Court; however, the respondent no. 2 did not appear as she was stated to be on leave.

The respondent no. 1 has assured this Court for compliance of the order passed by this Court and in pursuant to that an affidavit is filed on behalf of the respondent no. 1, wherein, the copy of the order dated 06.11.2024 is produced on record. In the affidavit, the respondent no. 1 has also offered unconditional apology from this Court.

The order dated 06.11.2024, passed by the respondent no. 1 is reproduced herein under:-

GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR, GUWAHATI-6

No.ECF-575259/70

ORDER

Perused: Cont.Cas(C)No.536/2018(Dipak Gogoi & Anr. Vs.SoA) and WA/304/2014 (Jyoti Baruah & 8 Ors. Vs. SoA).

Findings: It is recorded in the Hon'ble Gauhati High Court's Order dtd. 10.07.2018 passed in WA/304/2014, that the appellants claim that they were appointed as Assistant Teachers vide orders dtd. 12.03.2001 and 17.03.2001 at different MV Schools in Dhakuakhana Sub-Division of Lakhimpur district.

Decision: In the Hon'ble High Court's order dtd. 10.07.2018 passed in WA/304/2014 (Jyoti Baruah & 8 Ors. Vs. SoA) it is stated that ***"For all the discussions and findings above, we hold that the appellants were not given a fair deal and were taken out of service illegally. They have been discriminated against, more so when peers directly from the same stock as the appellants have since been regularized/adjusted in their service with grant of regular pay. From the facts in its entirety, it is seen that the State respondents have not only acted unfairly but have also demonstrated lack of due application of mind in creating grounds for termination when there was none, particularly, having regard to the findings of the Court, as discussed above. We, accordingly, set aside the termination order dated 2.11.2010, issued by the DEE, Assam, as well as the judgment and order under appeal dated 7.8.2014 passed in WP(C) 6071/2010, save and except the order/direction for making payment of salaries to the appellants for the period they worked. We direct the State respondents to forthwith take back the appellants into their service as Assistant Teachers in their respective schools by passing necessary orders. Wemakenoorder for payment of back-wages as there are no pleadings that the appellants had not been gainfully employed since the period after termination from service. However, it is ordered that the period wit out duty shall not be considered as break-in-service and the said period shall count for the purpose of service benefits, including retirement benefits",***

In compliance to the HHC' order dated 10.07.2018 passed in WA/304/2014 (Jyoti Baruah & 8 Ors. Vs. SoA) the School Education Department has decided to take back services of all the appellants as Assistant Teachers in their respective schools and accordingly)the Director of Elementary Education, Assam is hereby instructed to take necessary steps for giving consequential benefits as per the order of Hon'ble Gauhati High Court. Further, Director of Elementary Education, Assam is also instructed to ensure that the period without duty shall not be considered as break in service and the said period shall be counted for the purpose of service benefits, including retirement benefits.

This is issue is in compliance of Hon'ble High Court's order dtd. 10.07.2018 passed in WA/304/2014 (Jyoti Baruah & 8 Ors. Vs. SoA).

Signed by

(Narayan Konwar, IAS)
Secretary to the Govt. of Assam.
Department of School Education.

Memo No.No.ECF-575259/70-A

Having gone through the order dated 06.11.2024, we are of the considered view that the order passed by this Court on 10.07.2018, in WA No. 304/2014 has substantially being complied with; hence no further order(s) is required to be passed. Accordingly, the instant contempt petition is disposed of and the notice issued to the respondents is hereby discharged.

JUDGE

CHIEF JUSTICE

Comparing Assistant