GAHC010173172020

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

Case No. : WP(C)/5344/2020

MD. JAHUR ALI
S/O. LT. BABOR ALI MORAL, RETD. HEADMASTER, DHUMKURA M.E. SCHOOL, PREMANENT R/O. MOHMARA PATHAR, P.O. TENGAGURI, DIST. MORIGAON, ASSAM-782127.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF FINANCE, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECY.

DEPTT. OF ELEMENTARY EDUCATION
DISPUR
GUWAHATI-781006.

3:THE DIRECTOR OF ELEMENTAR EDUCATION

KAHILIPARA
GUWAHATI-781019.

4:DISTRICT ELEMENTARY EDUCATION OFFICER

MORIGAON-782105.

5:DIRECTOR OF PENSION

ASSAM
HOUSEFED COMPLEX
LAST GATE
DISPUR

GUWAHATI-781006

Advocate for the Petitioner : MR. N ISLAM

Advocate for the Respondent : SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

16.12.2020

Heard Mr. N Islam, learned counsel for the petitioner. Also heard Mr. PN Sarma, learned Standing counsel for the Elementary Education Department as well as Mr. B Deori, learned Government Advocate and Mr. A Chaliha, learned counsel for the Finance Department, Assam.

2. The petitioner is a retired Headmaster of Dhumkura ME School in the district of Morigaon, who retired from service on 01.11.2004. He was granted all other retirement benefits except the leave encashment which was granted for 80 days instead of the maximum period of 300 days.

3. In this writ petition, the petitioner claims the balance of the unpaid salary for the unutilized earned leave which was not paid to him in course of his employment. Entitlement of unutilized earned leave up to the maximum period of 300 days even in the Vacation Departments of the Govt. of Assam has been settled by this Court in ***Khagendra Nath Deka and Ors., –vs- State of Assam*** reported in ***2011 (5) GLT 9***. In the said judgment, it has been held that all such employees even in the vacation department are entitled to payment of salary for the unutilized earned leave up to a maximum period of 300 days.

4. In the instant case, the petitioner states that he has received the salary for the unutilized earned leave for 220 days.

5. The law has been settled that the petitioner is entitled to the payment of salary for the unutilized earned leave for a maximum period of 300 days, therefore, this Court is of the view that the petitioner is entitled to the payment of salary for the unutilized earned leave for the balance period up to 300 days by deducting the number of days for which he has already

received payment.

6. Accordingly, the State respondents are directed to examine the case of the petitioner and arrive at a conclusion as to what is the balance period for which he is required to be paid the salary towards the unutilized earned leave.

7. The aforesaid exercise shall be completed within a period of 3(three) months from the date of receipt of a certified copy of this order and upon arriving at a conclusion, the salary be paid to the petitioner within a period of another 3(three) months thereafter.

8. In terms of the above, this writ petition stands disposed of.

JUDGE

Comparing Assistant