GAHC010168552025

2026:GAU-AS:15718

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

Case No. : WP(C)/4387/2025

AMINA SULTANA BARBHUIYA
ASSISTANT TEACHER, RONGPUR HIGH SCHOOL, C/O- MAJIBUR RAHMAN BARBHUIYA, RATANPUR ROAD, HAILAKANDI, WARD NO. 11, P.O. AND DIST. HAILAKANDI, ASSAM, PIN- 788155.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY COMMISSIONER AND SECRETARY, GOVT. OF ASSAM, SECONDARY EDUCATION, GUWAHATI, DISPUR-781006.

2:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE INSPECTOR OF SCHOOLS
CDC

CACHAR
SILCHAR
P.O. SILCHAR
DIST. CACHAR
ASSAM
PIN-788001.

4:THE DISTRICT COMMISSIONER
CACHAR
P.O. SILCHAR
DIST. CACHAR
ASSAM

PIN- 788001.

5:THE HEADMASTER
RONGPUR HIGH SCHOOL
P.O. RONGPUR PART-II
SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

6:MABRUR AHMED BARBHUIYA
IN-CHARGE HEAD MASTER
RONGPUR HIGH SCHOOL (DURING RELEVANT PERIOD) P.O. RONGPUR PART-II
SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001

Advocate for the Petitioner : MR. A R TALUKDAR,

Advocate for the Respondent : GA, ASSAM, MS. U BARUAH (R6),MR. T U LASKAR (R6),MR. N DHAR (R6),SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 12.10.2026

Heard Mr. A.R. Talukdar, learned counsel for the petitioner. Also heard Ms. H. Terangpi, learned Standing Counsel for respondent nos. 1, 2 and 3; Ms. K. Phukan, learned Standing Counsel for respondent no. 4; and Mr. T.U. Laskar, learned Standing Counsel for respondent nos. 5 and 6.

2. The petitioner by way of the present proceedings; has assailed the communication, dated 05.07.2023, issued by the Inspector of Schools, Cachar District Circle, Silchar, thereby, directing the Principal of the school, Rongpur High School, Cachar, wherein, the petitioner is serving, to cut the pay of the

petitioner for two days from her salary for the month of April, 2023, and in the event, if the salary has already been drawn by the petitioner for the month of April, 2023; the deduction to be made from the salary for the month of June, 2023.

3. The petitioner is serving as an Assistant Teacher in Rongpur High School, Cachar, since 04.11.2003. On 24.04.2023, during an inspection made by the Deputy Commissioner, Cachar, in the said school, it was found that the petitioner was absent for two days without prior permission. Accordingly, the petitioner was denoted as absent on 18.04.2023 and 19.04.2023, in the attendance Register. Thereafter, a Show Cause Notice, dated 29.04.2023, was issued against the petitioner requiring her to Show Cause as to why disciplinary action should not be taken against her as per Rule, for gross negligence, dereliction of duty and disobedience.

4. The petitioner, vide her reply, dated 02.05.2023, explained the circumstances under which she was absent from the school for two days. It was the contention of the petitioner that on 18.04.2023 and 19.04.2023, she was suffering from various ailments due to fever and was administered saline. She also stated that her sudden illness was also conveyed to the Principal (respondent no. 6) over telephone. She also apologized for her absence caused by unavoidable circumstances.

5. It is further submitted that thereafter, she submitted an apology application dated 07.07.2023 before the Deputy Commissioner, Cachar stating all the facts and circumstances leading to her absence in the school on 18.04.2023 and 19.04.2023. She has also stated in her application that in her reply to show cause letter issued by the Principal (respondent no. 6), she has categorically described the reasons for her absence on two days. She has also prayed before

the Deputy Commissioner for grant of Casual Leave against the absent marked days in the attendance register during his sudden visit to Rongpur High School on 19.04.2023 and for release of the pay deducted. But the said apology of the petitioner had remained unattended till date.

6. It is seen that the Principal of the school in question being satisfied with the show cause reply given by the petitioner, had put up a note on the show cause reply letter stating "*satisfactory of your cause*."

7. Notwithstanding the explanation furnished by the petitioner and the note of the Principal being endorsed, the Inspector of Schools, Cachar District Circle, vide his communication, dated 05.07.2023, directed the Principal of the school to cut the pay of the petitioner for two days from her salary for the month of April, 2023, and in the event, if the salary has already been drawn by the petitioner for the month of April, 2023; it was required to be cut from the salary for the month of June, 2023. The facts are not disputed by the respondents.

8. From the pleadings, it is seen that vide Show Cause Notice, dated 29.04.2023, it was alleged against the petitioner that she was absent in the said school without prior permission from 18.04.2023 to 19.04.2023 and her such absence amounted to gross negligence, dereliction of duty and disobedience; and therefore, the petitioner was directed to show cause as to why disciplinary action should not be initiated against her as per Rule.

9. The petitioner vide her reply, dated 02.05.2023, stated that her absence from the school in question, on 18.04.2023 and 19.04.2023, was not deliberate and she was suffering from some ailment due to fever and was administered saline and which fact was also conveyed to the Principal of the school over telephone.

10. It is seen that the Principal of the school in question being satisfied with the show cause reply given by the petitioner endorsed a note on the show cause reply letter stating "*satisfactory of your cause.*" In spite of the said position and without instituting any further proceedings initiated against the petitioner by instituting a proper enquiry, the respondent No. 3 had proceeded to direct for a pay cut of two days from the salary of the petitioner, in the manner as indicated hereinabove.

11. The allegations levelled against the petitioner that she had remained absent from her duty in the said school on 18.04.2023 and 19.04.2023, appears to have been sufficiently explained in-as-much it is evident that the petitioner had suffered from various ailment due to fever and was administered saline. She was also informed her sudden illness to the Principal (respondent no. 6) over telephone. The Principal of the school had also endorsed on her reply accepting the said contention of the petitioner.

12. The contentions on behalf of the petitioner and that of the Principal of the said school, having not been disputed by the respondents, and no further proceedings were initiated against the petitioner in respect of the allegations levelled against the petitioner regarding her absence on 18.03.2023 and 19.04.2023, in the said school without prior permission; do not have any basis and is therefore rendered unsustainable.

13. The absence of the petitioner having been duly explained by the petitioner with sufficient cause and accepted by the Principal of the said school; it was not open for the respondent authorities to proceed to impose upon the petitioner any penalty in the matter. Further, it is to be noted that the penalty as imposed upon the petitioner is not the result of any proceedings as instituted under the provisions of the Assam Services (Discipline and Appeal) Rules, 1964, but, was

in pursuance to a Show Cause Notice issued to the petitioner, which can only be deemed to be a communication seeking explanation. The petitioner having justified her absence from the school on 18.04.2023 and 19.04.2023, and that too, with due information being intimated to the Principal of the said School over telephone; this Court must hold that there was no occasion to impose any penalty upon the petitioner.

14. Accordingly, the order, dated 05.07.2023, directing to cut the pay of the petitioner for two days from her salary for the month of April, 2023, and in the event, if the salary has already been drawn by the petitioner for the month of April, 2023; it is to be cut from the salary for the month of June, 2023, as the case may be; being unjustified and therefore arbitrary, the same accordingly, stands set aside and quashed insofar as it concerns the petitioner.

15. In view of the interference made by this Court with the order, dated 05.07.2023; the respondents are now required to refund to the petitioner, the pay which was so cut for two days. The said refund be effected within a period of 30(thirty) days from the date of receipt of a certified copy of this order.

16. With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant