

GAHC010114922023



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

Case No. : WP(C)/3150/2023

ZAHIDA KHATUN @ JAHIDA KHATUN
DAUGHTER OF LATE ALIMUDDIN,
RESIDENT OF VILLAGE- CHIRA-KUNDI,
P.O. AND P.S. RANGIA,
IN THE DISTRICT OF KAMRUP(R),
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EDUCATION(SECONDARY) DEPARTMENT,
DISPUR, GUWAHATI- 781006.

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

3:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
DISTRICT- NALBARI

ASSAM
PIN- 781369.

4:THE HEAD MASTER
P.B. ALLIA HIGH SCHOOL
NALBARI

DISTRICT- NALBARI
ASSAM

PIN- 781369.

5:THE TREASURY OFFICER
NALBARI
ASSAM
PIN- 781369

Advocate for the Petitioner : MR. P B MAZUMDER

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

02.06.2023

Heard Mr. P. B. Mazumdar, the learned counsel for the petitioner and Mr. N. J. Khataniar, the learned counsel appearing on behalf of the petitioner Nos.1 to 3 as well as Mr. R. Borpujari, the learned counsel appearing on behalf of the respondent No.5.

2. Issue notice making it returnable on **11.08.2023**.
3. As the respondent Nos.1, 2, 3 & 5 are duly represented by their respective counsels, extra copies of the writ petition be served upon them by 05.06.2023.
4. As regards the respondent No.4, steps be taken by way of registered post with A/D as well as through usual process within 3 (three) days from today.
5. The case of the petitioner herein is that the petitioner was initially appointed on ad-hoc basis at Laluku H.S. School under the Lakhimpur District by the then Inspector of Schools, Lakhimpur vide the order dated

09.06.1994. The said service of the petitioner was extended from time to time. During this ad-hoc service period, the petitioner was transferred from Laluk H.S. School to P. B. Allia High School on 16.09.2000. It further appears that the petitioner's services was regularized as Assistant Teacher, Arabic by the then Inspector of Schools, NDC, Nalbari vide an order dated 22.12.2009. In doing so, the Inspector of Schools, Nalbari had regularized the service of the petitioner from the date of her joining. It further appears from the Annexure-11 to the writ petition that the petitioner received her salary till 31.12.2005 and thereupon, the petitioner did not receive the monthly salary due to non-availability of the GPF Account. It further appears from the record that this Court vide the order dated 30.08.2019 in WP(C) No.352/2018, directed the respondent authorities, i.e. the Director of Secondary Education as well as the Inspector of Schools to resubmit the application for opening of the GPF Account of the petitioner along with all relevant documents to the Office of the Accountant General (A&E), Assam within a period of four weeks from the date of the receipt of the certified copy of the order. It was further directed that upon receipt of the said proposal, the Office of the Accountant General (A&E), Assam would do the needful so that the GPF Account of the petitioner can be opened without any further delay. It further reveals that on 19.05.2012, the Inspector of Schools, NDC, Nalbari issued a communication to the Director of Secondary Education, Assam thereby forwarding the letter received from the respondent No.4 for opening of the GPF Account proposal in respect to the petitioner. Thereupon, the Deputy Director of Secondary Education had passed an order as could be seen from the Annexure-11 to the writ petition stating

inter-alia that the regularization of the services of the petitioner has been made by the Inspector of Schools, Nalbari vide the order dated 22.12.2009 w.e.f from the date of her joining, i.e. on 10.06.1994 which may be considered as the date of regularization of service and the Accountant General (A&E), Assam was informed. It further appears that the Office of the Accountant General (A&E), Assam had issued a communication to the Inspector of Schools, Nalbari dated 24.09.2021 wherein it has been mentioned that the GPF Account of the petitioner was opened w.e.f. 21.09.2000. The case of the petitioner herein is that as the services of the petitioner was regularized w.e.f. 10.06.1994 and the petitioner had only received the monthly salary up till 31.12.2005, the petitioner, therefore, is entitled to receive salary and other allowances w.e.f. 01.01.2006.

6. The respondents in the Secondary Education Department are directed to file their affidavit as regards the entitlement of the petitioner on or before 07.08.2023 without fail.

7. The interim prayer shall be considered on the next date after perusal of the affidavit to be filed by the Secondary Education Department. It is further observed that if the respondents fail to file the affidavit, this Court shall consider the prayer for interim directions.

8. List accordingly.

JUDGE