

GAHC010185972019



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

Case No. : WP(C)/5867/2019

NAYEBUR RAHMAN
S/O- MD. NAZIR ALI, R/O. VILL- GERGERIA, P.S. PATACHARKUCHI, DIST.
BARPETA (ASSAM).

VERSUS

STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT., ,DISPUR, GHY.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19.

4:THE BODOLAND TERRITORIAL COUNCIL
THROUGH ITS SECRETARY
KOKRAJHAR
ASSAM.

5:THE DIRECTOR OF EDUCATION
THE BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM.

6:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BAKSA

ASSAM.

7:COMMISSIONER AND SECRETARY
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHAT

Advocate for the Petitioner : MS. P BHUYAN

Advocate for the Respondent : SC, EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

31.07.2023

Heard Mr. S Dutta, learned counsel for the petitioner and Mr. P K Bora, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 & 3. Also heard Mr. A Chaliha, learned Standing counsel, Finance Department, Assam for the respondent No. 2; Ms. R B Bora, learned Standing counsel, BTC for the respondent Nos. 4, 5 & 6 as well as Mr. R Dhar, learned Standing counsel, WPT&BC Department, Assam for the respondent No. 7.

2. The Deputy Inspector of Schools, Nalbari by an order dated 06.12.1999 appointed the petitioner as a Founder Teacher of the newly taken over Arnibil Milan Lower Primary School within the Mushalpur Education Block of District-Baksa under the BTC at monthly stipend of Rs. 900/-, which was later enhanced to Rs. 1800/- per month.

3. The petitioner passed his Junior Basic Training Course Examination from Basic Training Centre, Nalbari in the examination held in February, 2005 of which result was declared on 06.05.2005.

4. As per the terms and conditions of the appointment order of the petitioner dated 06.12.1999, he was to receive only fixed amount of stipend till passing of his Junior Basic Training Course Examination, but the Service Book of the petitioner annexed to this petition discloses that since 2000 itself, the petitioner was receiving Scale of Pay, though he had

passed Junior Basic Training Examination on 06.05.2005.

5. By an order dated 01.12.2008, the Director of Education, BTC terminated the service of the petitioner finding his appointment as doubtful, which the petitioner challenged in a writ petition, being WP(C) No. 1242/2010.

6. During the deliberation in said WP(C) No. 1242/2010, Standing counsel for the BTC placed before the Court that following the order of the Court passed in Writ Appeal No. 182/2013 the BTC authorities took a policy decision to regularize the service of the terminated teachers who received salaries up to 17.10.2006.

7. The Court found that the petitioner received salary till his termination, i.e., till 01.12.2008.

8. As such, by order dated 04.08.2016 passed in said WP(C) No. 1242/2010, the Court set aside and quashed the impugned termination order of the petitioner dated 01.12.2008 issued by the Director of Education, BTC with the observation that he would be reinstated in service and thereby entitled to all the benefits in terms of the policy decision of the BTC authorities.

9. As the respondent authorities in the BTC did not comply with the said order dated 04.08.2016 passed in WP(C) No. 1242/2010, the petitioner preferred a contempt petition being Cont.Cas(C) No. 326/2017.

10. By order dated 12.01.2018 the order of termination of the petitioner was withdrawn and he was reinstated in service in compliance of the order of the Court dated 04.08.2016 passed in said WP(C) No. 1242/2010.

11. Petitioner stated that after his reinstatement in service on 12.01.2018, he retired from service on 30.06.2018.

12. On being enquired, Ms. R B Bora, learned Standing counsel, BTC has stated that as per the policy decision of the authorities in the BTC, the services of those terminated teachers who received salaries up to 17.10.2016 were considered for regularization. But in the case in hand, respondent authorities in the BTC have failed to place any such order regularising the service of the petitioner.

13. However, in the affidavit filed by the Director of Education, BTC; respondent No. 3, it is stated that proposal for supplementary demand has been made before the Commissioner & Secretary to the Government of Assam in the Department of Welfare of Plain Tribes and Backward Communities for necessary sanction of amount(s) towards payment of arrear salaries to the teachers concerned way back on 30.01.2020, which is yet to be sanctioned.

14. From the affidavit of the Director of Education, BTC; Ms. R B Bora, Standing counsel, BTC has placed before the Court that as soon as the concerned department in the State Government sanctions the supplementary demand made by the BTC, the arrear salaries will be paid to the petitioner and thereafter, the concerned Drawing and Disbursing Officer shall process the matter of pensionary benefits to him, who retired from service on 30.06.2018.

15. During the deliberation of the matter, Mr. Dhar, Standing counsel, WPT&BC Department; respondent No. 7 placed before the Court that Welfare of Bodoland Department has now been entrusted to look after the salary component of all the Government employees serving under the BTC substituting the WPT&BC Department of the Government.

16. The respondent authorities shall file its individual affidavit(s) in the matter on or before 22.08.2023 stating the status of claim of the petitioner, serving copy of the same on the learned counsel for the petitioner.

17. List on **29.08.2023**, along with the other connected matters of non-payment of salaries to the teachers serving in the district of Baksa under the BTC.

JUDGE

Comparing Assistant