

GAHC010192382024



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

**Case No. : WP(C)/4795/2024**

ANUP KALITA AND 43 ORS  
S/O- LATE CHANDRA KANTA KALITA  
R/O- BHAREGAON, SARUPETA, P.O - SARUPETA, PIN-781318, DIST-  
BARPETA, ASSAM.

2: PROTIVA DUTTA  
W/O -UTPAL DUTTA  
VILL- MERELI PATHER CHABUA  
P.O - CHABUA  
DIST-DIBRUGARH  
PIN - 786184.

3: BHAGYABATI RAJKONWAR  
S/O - KHAGEN RAJKONWAR  
VILL - NABAJYOTI GAON  
P.O-ZALONI  
P.S - DIBRUGARH  
DIST - DIBRUGARH  
PIN- 786602

4: TRAILOKYA BORAH  
S/O- KUMUD CHANDRA BORAH  
VILL- BAMUNBARI  
P.O- BRAHMAJAN  
P.S- GOHPUR  
DIST - BISWANATH  
PIN - 784172

5: JURI CHABUKDHARA  
D/O-LATE NIRMAL CHABUKDHARA  
VILL- CHUPAHIBARAI  
P.O- KALABARI  
P.S-GOHPUR  
DIST-BISWANATH

PIN-784178

6: JAYANTA BORAH  
S/O- LATE BHADRA BORAH  
VILL- PURBAJYOTI KRISHIPAM NIGAM  
P. O - PULISOMONI  
DIST- BISWANATH  
PIN- 784178

7: BINANDA KUMAR DEY  
S/O-LATE NRIPENDRA KR.DEY  
VILL - PURBAJYOTI NIGAM  
P. O - PULISOMONI  
DIST- BISWANATH  
ASSAM  
PIN -784178.

8: PRADIP BISWAKARMA  
S/O- LATE DAL BAHADUR  
VILL- TETONBARI  
P.O- TETONBARI  
P.S- GOHPUR  
DIST- BISWANATH  
ASSAM  
PIN- 784171

9: BOISYA KAMAN  
S/O- LATE BUDHURAM KAMAN  
VILL- CATRANGURI  
P.O- GOHPUR  
DIST- BIWANATH  
PIN- 784168

10: SANTANU TALUKDAR  
S/O- ACHYUT CHANDRA TALUKDAR  
VILL- BHAWANIPUR  
PASCHIMHATI  
P.O- BHAWANIPUR  
P  
S- BHAWANIPUR  
DIST- BARPETA (BAJALI)  
PIN - 781352.

11: PHANINDRA KUMAR DAS  
S/O- BIPIN CHANDRA DAS  
VILL- SARUTAPA  
P.O- SARUTAPA

P.S- BARPETA  
DIST- BARPETA  
PIN- 781352

12: JNANARANJAN KALITA  
S/O -DAMBARUDHAR KALITA  
VILL- SARUPETA  
CHAPARBARI  
P.O- SARUPETA  
DIST-BAJALI  
ASSAM  
PIN-781318

13: UTPAL KUMAR SHARMA  
S/O-KRISHNA KANTA SARMA  
VILL-BHALAGURI  
P/O- BHALAGURI  
DIST- BAJALI (BARPETA)  
PIN-781318.

14: DHANJIT SARMA  
S/O- ANNADA SARMA  
VILL-PURAN BHABANIPUR  
P/O-PURAN BHABANIPUR  
DIST- BAJALI  
ASSAM  
PIN-781318

15: ABDUL JABBAR  
S/O-JULAM HUSSAIN  
VILL-BIDYA NAGAR  
P/O-RANGAGARH HUI  
DIST- NAGAON  
ASSAM  
PIN-782002.

16: INTU KAKATI  
S/O-LATE BHABA RAM KAKATI  
VILL- HUI RANGAGARAH  
P/O-RANGAGARAH HUI  
DIST- NAGAON  
ASSAM  
PIN-782002

17: PRADIP CHETRY  
S/O-LATE MON BAHADUR CHETRY  
VILL-GOGAMUKH NEWAR GAON  
P/O- GOGAMUKH

DIST- DHEMAJI  
ASSAAM  
PIN-787034

18: PARAMANANDA LAHAN  
S/O-BUDHESWAR LAHAN  
VILL-NAPAM  
P/O-KHUBALIA  
DIST- DHEMAJI  
ASSAM  
PIN-787057

19: SAIDUL HOQUE  
S/O-ARHRAFUL HOQUE  
VILL- BIDYAPUR  
DHANTOLA  
P/O-BIDYAPUR  
DIST- BONGAIGAON  
ASSAM  
PIN-783372.

20: ABUL FARAH AHMED  
S/O-ABDUL GOFUR  
VILL-CHAKLA PT.1  
P/O-CHAKLA  
DIST- BONGAIGAON  
ASSAM  
PIN-783392

21: HIRANYA KUMAR BARUA  
S/O- LATE DEBENDRA NR. BASHBARI  
VILL-BASHBARI PT-1  
P/O-BONGAIGAON  
DIST- BONGAIGAON  
ASSAM  
PIN-783380

22: NILIMOY KAKATI  
S/O-LATE KHAGEN KAKATI

VILL- BARBILA  
P/O-BARBILA  
DIST- BONGAIGAON  
ASSAM  
PIN -783392

23: REKHA RANI DEVI  
W/O-BHASKAR SARMAH

VILL- DEOPANI GOHAIN GAON  
P/O-NAZIRA  
DIST- SIBSAGAR  
ASSAM  
PIN-785684

24: RITUNJOY CHANGMAI  
S/O-KRISHNA CHANGMAI  
VILL-KHAMUN  
P/O-ONGC COLONY  
DIST- SIBSAGAR  
ASSAM  
PIN-785697

25: MINAKHI BORA  
W/O-KARUN BORA  
VILL- NITAIPUKHURI GAON  
P/O-NITAIPUKHURI  
DIST- SIBSAGAR  
ASSAM  
PIN-785671

26: RANU GOGOI HANDIQUE  
C/O- CHANDAN HANDIQUE  
VILL- DEROI HABI  
P/O- DEORIHABI CHAKALIA  
DIST- SIBSAGAR  
ASSAM  
PIN-785669

27: UTTAMJIT BORAH  
C/O-PRAFULLA BORAH  
VILL- SANTIPUR  
BOKABIL  
P/O-NAKATANI  
DIST- SIBSAGAR  
PIN-785667

28: ABHIJEET MOHAN  
S/O-SINGHESWAR PHUKAN  
VILL- HABIRAM PATH  
BEHIND HDFC BANK  
WARD NO.11  
P/O- SIBSAGAR  
DIST- SIBSAGAR  
ASSAMPIN-785640

29: MALA CHETIA DUTTA  
D/O-PRIYA NATH CHETIA

VILL - DEOPANI GOHAIN GAON  
P/O-NAZIRA  
DIST - SIBSAGAR  
ASSAM  
PIN-785684

30: BALUBHADRA GOGOI  
C/O-PADMESWAR GOGOI

VILL-THOWRA DOLE GAON  
RAJMAI  
P/O-RAJMAI  
DIST- SIBSAGAR  
ASSAM  
PIN-785672

31: SADDIK RAJKHOWA  
S/O- ISAD ALI RAJKHOWA

VILL- GELEKI GRANT NO. 1  
P/O -GELEKI  
DIST - SIBSAGAR  
ASSAM  
PIN-785696

32: NABAJYOTI RAJKONWAR  
C/O-LAKHAN RAJKONWAR

VILL- MAIBELLA 101 NO GRANT  
P/O-MAIBELLA  
DIST- CHARAIDEO  
ASSAM  
PIN-785689

33: SRIMANTA DUTTA  
C/O- CHAIDANANDA DUTTA

VILL- DUARAHPAR GAON  
BARUATI  
P/O- CHAMUA KHANIKAR  
DIST- SIBSAGAR  
ASSAM  
PIN-785661

34: RAMESH KUMAR SAHU

S/O- UPEN SAHU  
VILL-NAZIRA  
WARD NO.9  
P/O- NAZIRA  
P/S- NAZIRA  
DIST- SIBSAGAR  
ASSAM  
PIN-785685

35: TANMOI SAIKIA  
S/O-PUNI RAM SAIKIA

VILL- KALYANPUR  
P/O-KAMPUR  
DIST NAGAON  
ASSAM  
PIN- 782426

36: RANJON GOGOI  
S/O- LATE GOGOI

VILL- AKA GAON  
P/O- NA- BHETA  
DIST- GOLAGHAT  
ASSAM  
PIN-785622

37: ACHUT CHUTIA  
S/O- JOYRAM CHUTIA

VILL-SOMDER GAON  
P/O- DIKSHU  
DIST- SIBSAGAR  
ASSAM  
PIN-785684

38: HIRONMOY KAKATY  
C/O- DHANYA KAKOTY

VILL-DIKSHU KAKOTY GAON  
P/O-DIKSHU  
DIST- SIVASAGAR  
PIN-785684

39: RAJSHEKHAR BHARALI  
S/O-ABHAYA NANDA BHARALI

VILL-CHRING

SANTIPARA  
P/O-HATIGHULI  
DIST- SIVASAGAR  
ASSAM  
PIN-785664

40: JASMIN SULTANA  
D/O-NASIR UDDIN AHMED

VILL-BANGARIGURI PAM  
P/O-JAJORI  
DIST- NAGAON  
ASSAM  
PIN-782442

41: MOUCHUMI RAJKHOWA  
C/O-LATE RAM RAJKHOWA

VILL- THALIPUKURIA

P/S- GOHPUR  
P/O- GOHPUR  
DIST- BISWANATH  
ASSAM  
PIN-784172.

42: SWAPAN KUMAR BORAH  
S/O-BIDYADHAR BORAH

R/O-RONGAMATI  
CILIMKHOWA  
NAGAON  
BARJURI  
ASSAM  
PIN-782139.

43: RATUL SEN  
S/O-KRIPA SINDHU SEN  
R/O-SWARUPANANDA ROAD  
NEAR RAILWAY GATE NO.02  
WARD NO.06  
HOJAI  
NAGAON  
ASSAM  
PIN-782435.

44: ABDUL HAI AHMED  
S/O- ABDUL KHALEQUE

R/O-MANIKPUR  
P.O- KRISHNAI  
PIN-783126

DIST- GOWALPARA

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY ITS COMMISSIONER TO THE GOVERNMENT OF  
ASSAM, (EDUCATION) SECONDARY DEPARTMENT, DISPUR, GUWWHATI-  
06.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM  
EDUCATION DEPARTMENT  
DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF SECONDARY EDUCATION  
KAHILIPARA  
GUWAHATI-19  
ASSAM.

4:THE FINANCE DEPARTMENT  
REPRESENTED BY COMMISSIONER AND SECRETARY  
DISPUR  
GUWAHATI-06.

5:THE RASHTRIYA MADHYAMIK SHIKSA ABHIYAN (RMSA)  
REPRESENTED BY ITS MISSION DIRECTOR  
KAHILIPARA  
GUWAHATI-19

**Advocate for the Petitioner** : MR B P BORAH, MISS. J GOGOI,A KALITA,MR J. B.  
CHOUDHURY,MR. A KHANDAKAR,MR P J DUTTA

**Advocate for the Respondent** : SC, SEC. EDU., SC, FINANCE DEPTT.

Linked Case : WP(C)/6525/2024

ANUP KALITA AND 41 ORS  
S/O- LATE CHANDRA KANTA KALITA  
R/O-BHAREGAON  
SARUPETA  
P.O SARUPETA

PIN-781318  
DIST- BARPETA  
ASSAM

2: TRAILOKYA BORAH  
S/O- KUMUD CHANDRA BORAH  
AGE ABOUT-42 YEARS  
VILL- BAMUNBARI  
P.O- BRAHMAJAN  
P.S- GOHPUR  
DIST BISWANATH  
PIN 784172

3: JURI CHABUKDHARA  
D/O-LATE NIRMAL CHABUKDHARA  
AGE ABOUT-42 YEARS  
VILL- CHUPAHIBARAI  
P.O- KALABARI  
P.S-GOHPUR  
DIST-BISWANATH  
PIN-784178

4: JAYANTA BORAH  
S/O- LATE BHADRA BORAH  
AGE- 48 YEARS  
VILL- PURBAJYOTI KRISHIPAM NIGAM  
P. O PULISOMONI  
DIST- BISWANATH  
PIN- 784178

5: BINANDA KUMAR DEY  
S/O-LATE NRIPENDRA KR.DEY  
AGE- 50 YEARS  
VILL - PURBAJYOTI NIGAM  
P. O PULISOMONI  
DIST- BISWANATH  
ASSAM  
PIN 784178.

6: PRADIP BISWAKARMA  
S/O- LATE DAL BAHADUR  
AGE ABOUT-50YEARS  
VILL- TETONBARI  
P.O- TETONBARI  
P.S- GOHPUR  
DIST- BISWANATH  
ASSAM  
PIN- 784171

7: BOISYA KAMAN  
S/O- LATE BUDHURAM KAMAN  
AGE ABOUT-50 YEARS  
VILL- CATRANGURI

P.O- GOHPUR  
DIST- BIWANATH  
PIN- 784168

8: SANTANU TALUKDAR  
S/O- ACHYUT CHANDRA TALUKDAR  
AGE- 42 YEARS  
VILL- BHAWANIPUR  
PASCHIMHATI  
P.O- BHAWANIPUR  
P  
S- BHAWANIPUR  
DIST- BARPETA (BAJALI)  
PIN - 781352

9: PHANINDRA KUMAR DAS  
S/O- BIPIN CHANDRA DAS  
AGE- YEARS  
VILL- SARUTAPA  
P.O- SARUTAPA  
P.S- BARPETA  
DIST- BARPETA  
PIN- 781352

10: JNANARANJAN KALITA  
S/O DAMBARUDHAR KALITA  
AGE- YEARS  
VILL- SARUPETA  
CHAPARBARI  
P.O- SARUPETA  
DIST-BAJALI  
ASSAM  
PIN-781318

11: UTPAL KUMAR SHARMA  
S/O-KRISHNA KANTA SARMA  
AGE ABOUT-51 YEARS  
VILL-BHALAGURI  
P/O- BHALAGURI  
DIST- BAJALI (BARPETA)  
PIN-781318

12: DHANJIT SARMA  
S/O- ANNADA SARMA AGE ABOUT-47 YEARS  
VILL-PURAN BHABANIPUR  
P/O-PURAN BHABANIPUR  
DIST- BAJALI  
ASSAM  
PIN-781318

13: INTU KAKATI  
S/O-LATE BHABA RAM KAKATI  
AGE ABOUT-45 YEARS  
VILL- HUI RANGAGARAH  
P/O-RANGAGARAH HUI  
DIST- NAGAON  
ASSAM  
PIN-782002

14: SAIDUL HOQUE  
S/O-ARHRAFUL HOQUE  
AGE ABOUT-40 YEARS  
VILL- BIDYAPUR  
DHANTOLA  
P/O-BIDYAPUR  
DIST- BONGAIGAON  
ASSAM  
PIN-783372

15: ABUL FARAH AHMED  
S/O-ABDUL GOFUR  
AGE ABOUT-38 YEARS  
VILL-CHAKLA PT.1  
P/O-CHAKLA  
DIST- BONGAIGAON  
ASSAM  
PIN-783392

16: HIRANYA KUMAR BARUA  
S/O- LATE DEBENDRA NR. BASHBARI  
AGE ABOUT- 40 YEARS  
VILL-BASHBARI PT-1  
P/O-BONGAIGAON  
DIST- BONGAIGAON  
ASSAM  
PIN-783380

17: NILIMOY KAKATI  
S/O-LATE KHAGEN KAKATI  
AGE ABOUT-43 YEARS

VILL- BARBILA  
P/O-BARBILA  
DIST- BONGAIGAON  
ASSAM  
PIN -783392

18: REKHA RANI DEVI  
W/O-BHASKAR SARMAH  
AGE ABOUT-49 YEARS  
VILL- DEOPANI GOHAIN GAON  
P/O-NAZIRA  
DIST- SIBSAGAR  
ASSAM  
PIN-785684

19: RITUNJOY CHANGMAI  
S/O-KRISHNA CHANGMAI  
AGE ABOUT-46 YEARS  
VILL-KHAMUN  
P/O-ONGC COLONY  
DIST- SIBSAGAR  
ASSAM  
PIN-785697

20: MINAKHI BORA  
W/O-KARUN BORA  
AGE ABOUT-49 YEARS  
VILL- NITAIPUKHURI GAON  
P/O-NITAIPUKHURI  
DIST- SIBSAGAR  
ASSAM  
PIN-785671

21: RANU GOGOI HANDIQUE  
C/O- CHANDAN HANDIQUE  
AGE ABOUT-44 YEARS  
VILL- DEROI HABI

P/O- DEORIHABI CHAKALIA  
DIST- SIBSAGAR  
ASSAM  
PIN-785669

22: UTTAMJIT BORAH  
C/O-PRAFULLA BORAH  
AGE ABOUT-47 YEARS  
VILL- SANTIPUR  
BOKABIL

P/O-NAKATANI  
DIST- SIBSAGAR  
PIN-785667

23: ABHIJEET MOHAN  
S/O-SINGHESWAR PHUKAN  
VILL- HABIRAM PATH  
BEHIND HDFC BANK  
WARD NO.11  
AGE ABOUT-53 YEARS  
P/O- SIBSAGAR  
DIST- SIBSAGAR  
ASSAMPIN-785640

24: MALA CHETIA DUTTA  
D/O-PRIYA NATH CHETIA  
AGE ABOUT-44 YEARS  
VILL DEOPANI GOHAIN GAON  
P/O-NAZIRA  
DIST SIBSAGAR  
ASSAM  
PIN-785684

25: BALUBHADRA GOGOI  
C/O-PADMESWAR GOGOI  
AGE ABOUT-45 YEARS  
VILL-THOWRA DOLE GAON  
RAJMAI  
P/O-RAJMAI  
DIST- SIBSAGAR  
ASSAM  
PIN-785672

26: SADDIK RAJKHOWA  
S/O- ISAD ALI RAJKHOWA  
AGE ABOUT-44 YEARS  
VILL- GELEKI GRANT NO. 1  
P/O GELEKI  
DIST SIBSAGAR  
ASSAM  
PIN-785696

27: NABAJYOTI RAJKONWAR  
C/O-LAKHAN RAJKONWAR  
AGE ABOUT- 47 YEARS  
VILL- MAIBELLA 101 NO GRANT  
P/O-MAIBELLA  
DIST- CHARAIDEO

ASSAM  
PIN-785689

28: SRIMANTA DUTTA  
C/O- CHAIDANANDA DUTTA  
AGE ABOUT-46 YEARS  
VILL- DUARAHPAR GAON  
BARUATI  
P/O- CHAMUA KHANIKAR  
DIST- SIBSAGAR  
ASSAM  
PIN-785661

29: RAMESH KUMAR SAHU  
S/O- UPEN SAHU  
AGE ABOUT-40 YEARS  
VILL-NAZIRA  
WARD NO.9  
P/O- NAZIRA  
P/S- NAZIRA  
DIST- SIBSAGAR  
ASSAM  
PIN-785685

30: RANJON GOGOI  
S/O- LATE GOGOI  
AGE ABOUT-48 YEARS  
VILL- AKA GAON  
P/O- NA- BHETA  
DIST- GOLAGHAT  
ASSAM  
PIN-785622

31: ACHUT CHUTIA  
S/O- JOYRAM CHUTIA  
AGE ABOUT-40YEARS  
VILL-SOMDER GAON  
P/O- DIKSHU  
DIST- SIBSAGAR  
ASSAM  
PIN-785684

32: HIRONMOY KAKATY  
C/O- DHANYA KAKOTY  
AGE ABOUT-44 YEARS  
VILL-DIKSHU KAKOTY GAON  
P/O-DIKSHU  
DIST- SIVASAGAR

PIN-785684

33: RAJSHEKHAR BHARALI  
S/O-ABHAYA NANDA BHARALI  
AGE ABOUT-37 YEARS  
VILL-CHRING  
SANTIPARA  
P/O-HATIGHULI  
DIST- SIVASAGAR  
ASSAM  
PIN-785664

34: MOUCHUMI RAJKHOWA  
C/O-LATE RAM RAJKHOWA  
AGE ABOUT-51 YEARS  
VILL- THALIPUKURIA

P/S- GOHPUR  
P/O- GOHPUR  
DIST- BISWANATH  
ASSAM  
PIN-784172

35: SWAPAN KUMAR BORAH  
S/O-BIDYADHAR BORAH

R/O-RONGAMATI  
CILIMKHOWA  
NAGAON  
BARJURI  
ASSAM  
PIN-782139

36: RATUL SEN  
S/O-KRIPA SINDHU SEN  
R/O-SWARUPANANDA ROAD  
NEAR RAILWAY GATE NO.02  
WARD NO.06  
HOJAI  
NAGAON  
ASSAM  
PIN-782435

37: ABDUL HAI AHMED  
S/O- ABDUL KHALEQUE  
R/O-MANIKPUR  
P.O- KRISHNAI  
PIN-783126

DIST- GOWALPARA

38: SHAFIQL ISLAM  
S/O- LATE JUL HUSSAIN AHMED  
VILL- TUKURA PART III  
P.O- TUKURA  
DIST- GOALPARA  
PIN-783126

39: SHEIKH MOHAMMAD ALI  
S/O-LATE FUL MAMUD SHEIKH  
VILL- KHAMAR MANIKPUR  
P.O- KRISHNAI  
PIN-781326  
DIST- GOALPARA  
ASSAM

40: NABAJYOTI NATH  
S/O-LATE GANESH NATH  
R/O- 1 NO KAKI 1 NO GAON  
P.O- KAKI  
PIN-782442  
DIST- HOJAI

41: RIMJHIM MOHAN BARTHAKUR  
C/O- REBOTI MOHAN BARTHAKUR  
R/O-ATIGAON  
P.O-KAMPUR  
DIST- NAGAON  
ASSAM  
PIN-782426  
VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY ITS COMMISSIONER TO THE GOVERNMENT OF ASSAM  
(EDUCATION) SECONDARY DEPARTMENT  
DISPUR  
GUWWHATI-06

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM  
EDUCATION DEPARTMENT  
DISPUR  
GUWAHATI-06

3:THE DIRECTOR OF SECONDARY EDUCATION  
KAHILIPARA  
GUWAHATI-19

ASSAM

4:THE FINANCE DEPARTMENT  
REPRESENTED BY COMMISSIONER AND SECRETARY  
DISPUR  
GUWAHATI-06

5:THE RASHTRIYA MADHYAMIK SHIKSA ABHIYAN (RMSA)  
REPRESENTED BY ITS MISSION DIRECTOR  
KAHILIPARA  
GUWAHATI-19

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Advocate for : MR. B P BORAH  
Advocate for : SC  
FINANCE appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE  
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : – 20.12.2024**

Heard Mr. P. K. Goswami, learned Senior Counsel, assisted by Mr. B. P. Borah, learned Counsel for the petitioners and Mr. D. Saikia, learned Advocate General, Assam and Senior Counsel, assisted by Mr. S.M.T. Chistie, learned Standing Counsel, Secondary Education Department, for the respondent Nos. 1, 2 & 3.

**2.** In this petition, under Article 226 of the Constitution of India, 43 petitioners have prayed for following relief(s) :-

- (a) to setting aside the Clause (1), (2) and (4) of the advertisement dated 02.12.2024,
- (b) to direct the respondent authorities to count their past services to grant the benefit of seniority and pension and to declare and direct that the petitioners are qualified for

pension under the law and benefit of pay protection for the length of services already under taken.

**3.** Mr. P.K. Goswami, learned Senior Counsel for the petitioners submits that pursuant to Notification, dated 10.06.2010 and through a valid selection process, the petitioners were appointed as Contractual Teachers in the year 2010. Since, then they have been rendering their services for almost 14 (fourteen) years. And they have also received twelve increments during the said period. Further, Mr. Goswami, submits that the respondent authorities, vide Notification, dated 03.03.2016, decided to regularize the service of the Contractual Teachers in the year 2016. But, some of the teachers had challenged the said process in WP(C) No. 5660/2016. Then again in the year 2019, the Government has decided to fill up the posts held by the petitioners. Then the association of the petitioners moved this Court by filing WP(C) No. 6919/2019, wherein this Court was pleased to direct the respondent authorities to keep proportional post reserved for Contractual Teachers. Thereafter, also the respondent authorities in violation of the earlier order of this Court tried to fill up the post, which was again stayed by this Court.

**3.1.** Mr. Goswami, further submits that on 01.07.2020, the petitioners were granted regular pay scale. Thereafter, some of the petitioners have filed one writ petition, being WP(C) No. 4795/2024, challenging some of the condition of the Notification, dated 01.07.2020, and the same is pending for adjudication before this Court. Thereafter, on 03.12.2024, the respondent authorities decided to regularized the services of the petitioners by a special drive, after 4<sup>th</sup> amendment of the Assam Secondary Education (Provincialisation) Rules 2024 and the petitioners are aggrieved by incorporation of the Clause (1),(2) and (4) of the said Notification as by virtue of the same, it is being contemplated to

deny the pay protection to the petitioners. Further submission of Mr. Goswami is that it is also stated that the first increment would be given to them only after one year of their satisfactory service and they have also been denied the old pension scheme and as such denial are violative of Article 14, 16 and 21 of the Constitution of India, being the same arbitrary.

**3.2.** Mr. Goswami, also submits that incorporation of those conditions will lessen the salary of the petitioners from Rs. 41,828/- to Rs. 37,220/- and as such the impugned advertisement is prejudicial to the interest of the petitioners and in earlier writ petitions also this Court has held that no prejudicial action can be initiated against the petitioners in the two writ petitions, being WP(C) No. 3594/2014 and WP(C) No. 5660/2016. Under such circumstances, Mr. Goswami, learned Senior Counsel, submits that the respondent authorities may be allowed to go ahead with the Advertisement dated 02.12.2024, but, in the interim, the petitioners may be allowed to draw whatever salary they have been drawing in the present post and the conditions Nos. (1), (2) and (4) being arbitrary in nature, may be stayed, otherwise the petitioners will be seriously prejudiced if their pay is lessen to Rs.37,220/ from Rs. 41,828/, without following the procedure being prescribed for such reduction.

**4.** Per contra, Mr. D. Saikia, learned Advocate General Assam, and Senior Counsel, submits that the respondent authorities, after amendment of the Assam Secondary Education (Porvincialisation) Rule 2024, had decide to regularized the service of the Contractual Teachers, who have been working as additional Contractual Teachers, under Secondary Education, Assam and that the posts, created for that purpose, are prospective in nature and beside receiving the basic salary, they will be entitled to some other service benefits also and therefore, the pay protection, for the service rendered by them, in the

past, will not be counted and the first increment will be provided to them after satisfactory service, for a period of one year.

**4.1.** Mr. Saikia, further submits that only the process is being initiated now and it will take time to complete the entire process and the question of imposition of the aforementioned question would arise at the end of the process and being the welfare state, the Govt. has decided to regularized the services of the petitioners and option is available to them to join the process of regularization of their service or they may continue with the present posts and in that event also they may continue with their service till attaining sixty years with the salary being paid to them.

**4.2.** Mr. Saikia further submits that that at this stage, notice may be issued to the respondent authorities and the respondent authorities will file affidavit-in-opposition and thereafter, the matter may be finally heard and no interim relief may be granted to the petitioners at this stage as the process is in nascent stage.

**5.** Having heard the submission of learned advocates of both the parties, I have carefully gone through the petition and the documents placed on record and also perused the impugned Advertisement, dated 02.12.2024, issued by the Director of Secondary Education, Assam.

**6.** It appears that as many as 13 conditions are being incorporated in the said Advertisement. And out of the said 13 conditions, the petitioners are primarily aggrieved by condition Nos. (1), (2) and (4). The said conditions are read as under:-

- (1) The regularized teachers shall be provided basic salary with admissible allowances and first increment be given only after

one year of regularization of service satisfactorily.

(2) The post will be prospective in nature. No pay protection for past worked can be claimed.

(4) State NPS contribution only shall be provided. At no stage, any claim for OPS from those posts shall be considered.

**7.** In respect of imposition of these conditions, the submissions, so advanced by learned Advocates of both sides, as mentioned herein above, needs further consideration.

**8.** At this stage, let notice be issued to the respondents, returnable in 4(four) weeks. However, no formal notice is need to be issued to Mr. Saikia, learned Advocate General, Assam and Mr. S.M.T Chistie, learned Standing Counsel, Secondary Education Department for the respondent Nos. 1, 2 & 3 has entered appearance and received notice; however extra requisite copies of the writ petition be furnished to them during the course of the day.

**9.** In respect of the interim prayer of the petitioners, the submissions advanced at the Bar receives due consideration of this court.

**10.** As submitted by the learned Advocate General, Assam the process is in nascent stage and will take some time to complete the entire process. That being so, there seems to be no urgency and given the nature of dispute, this court is of the view that without an affidavit being filed by the respondent authorities; it may not be appropriate to adjudge the merit of the submissions so advanced at the Bar.

**11.** However, balancing equities between the parties, and 'further considering the matter in its entirety, it is provided that implementation of aforesaid three conditions i.e. condition No. (1), (2), and (4) shall be subject to final outcome of

this writ petition.

**12.** List after four weeks.

**JUDGE**

**Comparing Assistant**