

GAHC010196652017



2026:GAU-AS:83

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

Case No. : WP(C)/3101/2017

JAWAHAR LAL SEN and 5 ORS.
S/O LT. JAGODISH CHANDRA SEN CIRCUIT HOUSE ROAD, HAILAKANDI
TOWN, P.O. and DIST. HAILAKANDI, PIN - 788151.

2: SHRI ALI HAIDAR LASKAR
S/O LT. ABDUL HAMID LASKAR VILL and P.O. CHANDPUR WEST
DIST. HAILAKANDI- 788152

3: SMTI. KSHAMA SEN
W/O JAWAHAR LAL SEN CIRCUIT HOUSE ROAD
HAILAKANDI TOWN
P.O and DIST. HAILAKANDI
PIN - 788151.

4: SHRI ABUL HUSSAIN CHOUDHURY
S/OLT. ABDUR REZAQUE CHOUDHURY VILL and P.O. LASKSHMIRBOND
DIST. HAILAKANDI
PIN - 788152.

5: SHRI BIDHAN CHANDRA DEB
S/O LT. BIRENDRA KUMAR DEB NUTANPARA
WARD NO. 7
HAILAKANDI TOWN
P.O. LAKSHMISAHAR
DIST. HAILAKANDI
PIN - 788152.

6: DR. DILIP KUMAR NATH
S/O LT. DWIJENDRA CHANDR NATH
ASHRAM ROAD
WARD NO. 15
HAILAKANDI TOWN
P.O. and DIST. HAILAKANDI
PIN - 788151

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, ASSAM
SECRETARIAT, DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
ASSAM
SECRETARIAT
DISPUR
GUWAHATI -6.

3:THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM

PENSION and PUBLIC GRIEVANCES DEPARTMENT
ASSAM
SECRETARIAT
DISPUR
GUWAHATI-6.

4:THE COMMISSIONER and SECRETAR TO THE GOVT.OF ASSAM

PERSONNEL DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR.S ROY, MR. S ALAM,MR.M H LASKAR

Advocate for the Respondent : GA, ASSAM, SC, FINANCE,MR M R ADHIKARI

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 05.01.2026

Heard Mr. M. H. Laskar, learned counsel for the petitioners. Also heard Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, appearing for the respondent nos.1, 3 and 4.

2. The petitioners by way of instituting the present writ petition have prayed for a direction upon the respondent authorities for authorizing to them the arrears of their pay and also the pension and pensionary benefits in terms of the accepted recommendations of the Assam 6th Pay Commission.

3. The petitioners, herein, were working as Principals, Associate Professors of various provincialized colleges in the State and were retired from their services on attaining the age of superannuation between the period w.e.f., 01-01-2006 to 31-03-2009. The Government of Assam on receipt of the report of the 6th Assam Pay Commission as constituted by it in the matter, proceeded to accept the said report with modifications as made by it. Accordingly, the Assam Services (Revision of Pay) Rules 2010 came to be issued. The State, respondents while proceeding to implement the accepted recommendations of the 6th Pay Commission, had stipulated that the said revision would be effective w.e.f., 01-01-2006. However, in respect of employees who retired between the period w.e.f., 01-01-2006 to 31-03-2009, no arrears shall be paid to them. However,

employees retiring from their services w.e.f., 01-04-2009 to 31-01-2010, the arrears working out would be credited in their bank account in one installment. The persons involved having all retired after 01-01-2006, the decision as arrived at by the Government with regard to release of arrears and a homogeneous class of retired employees having been now differentiated basing on the date of their retirement, led the Association representing the retired officers, teachers and employees to approach this Court by way of instituting a writ petition being WP(C).No.61/2011.

4. The co-ordinate Bench of this Court upon considering the issues arising in the matter was pleased vide Judgment and Order dated 28-04-2016 to allow the said writ petition by drawing the following conclusions;

“22. The materials on record would go to show that special provision has been made for those employees who had retired prior to 01.01.2006. There are two classes of retired employees (i) those who had retired prior to 01.01.2006, prior to coming into force of the revised pay structure with effect from 01.01.2006, and (ii) those who had retired after 01.01.2006 onwards. At the cost of repetition, it will be worthwhile to note that the Pay Commission recommendations were accepted vide Notification dated 04.02.2010. In other words, from 01.01.2006 to 04.02.2010, in respect of same categories of pensioners, who had retired after 01.01.2006, two classifications had been made one class consists of the pensioners who retired during the period from 01.01.2006 to 31.03.2009 and the other, who retired from 01.04.2009 onwards. Subsequently, for the purpose of grant of arrear of pay and pension revision another classification was made from 01.10.2008 to 31.03.2009. No materials have been placed by

the State Government to justify the classifications. Merely because there was a recommendation by the Pay Commission to that effect will not suffice. Because, such recommendation has to be considered and acted upon and therefore, the action taken by the State has to conform to the mandate of Article 14 of the Constitution of India. There is also no material placed by the State Government demonstrating that it will not be in a position to bear the financial burden. Even if such a plea was taken, how far that plea would have been tenable, in view of All India Judges Association (supra), is another question.

23. Article 14 is attracted when equals are treated differently without any reasonable basis. Article 14 permits reasonable classification, but the classification must satisfy the twin tests of classification being founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have rational nexus to the object sought to be achieved. The action of the State Government in granting benefit to a particular group by sub-dividing a homogenous class of pensioners into two or more groups is, in the considered opinion of the Court, in absence of any reasonable, rational or persuasive reason for the division, discriminatory. One must bear in mind that pension is neither a bounty nor a matter of grace and it is a social welfare measure to render socio-economic justice.

24. In view of the above discussions, the writ petition is allowed in terms of the prayers made. Consequential action shall be taken accordingly by the State respondents without any delay.”

5. Although the State respondents had preferred an appeal

against the said Judgment and Order dated 28.04.2016, the same came to be withdrawn with a liberty to prefer review application. The review application having been filed the same on consideration came to be dismissed. Thereafter, the State Respondents instituted Writ Appeal No.418/2023 before the Division Bench of this Court assailing the Judgment dated 28-04-2016 passed by the Coordinate Bench in WP(C).No. 61/2011 along with the order passed in the connected review petition.

6. The Division Bench of this Court upon considering the issues arising in the matter was pleased vide order dated 21-08-2025 to dismiss the Writ Appeal by holding that the object and purpose of revision of pay is due to increase in cost of living and when all the pensioners formed a single class, there cannot be any separate classifications amongst this homogenous group and accordingly the decision of the learned Single Judge was upheld. With the dismissal of the writ appeal, being Writ Appeal No.418/2023, the directions passed by the co-ordinate Bench of this Court vide Judgment and Order dated 28.04.2016, got affirmed. The cases of the pensioners who are retirees post 01-01-2006 is squarely covered by the Judgment and Order dated 28-04-2016 passed by the Co-ordinate Bench of this Court in WP(C).No. 61/2011.

7. In view of the said determination made by this Court, the petitioners are entitled to the arrears of pay, including the arrears of pension and pensionary benefits upon fixation of their pay in the revised scale of pay coming into effect in terms of the Revision Of Pay Rules 2010.

8. The respondent authorities shall now fix the pay of the petitioners in the revised scale of pay w.e.f., 01.01.2006 and thereafter release to the petitioners the arrears of pay so working out till the date of their respective superannuation from

service. The pay of the petitioner having been so fixed, the pension and pensionary benefits if not determined basing on the revised scale of pay applicable, the respondent authorities shall fix the pension and pensionary benefits of the petitioners by reckoning the revised scale of pay and also release to the petitioners the arrears working out thereof. The said exercise shall be initiated and concluded by the respondent authorities including the authorities of Education, Higher Department, within a period of 6 (six) months from the date of receipt of a certified copy of this order.

9. The petitioners shall furnish a certified copy of this order to the respondents arrayed in the present writ petition as well as to the Commissioner and Secretary, Government of Assam, Education, Higher Department, for compliance of the directions passed hereinabove.

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

JUDGE

Comparing Assistant