

JUDGMENT AND ORDER(ORAL)

Heard Mr. A.R. Bhuiyan, learned counsel appearing for the petitioners. Mr. SMT Chistie, Standing Counsel Education Department is appearing for Respondent Nos.1 ,4,5,6 & 7. Mr. G. Sarma, Govt. Advocate appears for Respondent No.3. The Respondent No.2 is represented by Ms. R. Bora, Standing Counsel, Finance Department.

2. The petitioners are erstwhile employees of the Deputy Director of Madrasa Education, Assam. In order to gear up the administrative functioning of Madrasa Education, a separate Directorate for Madrassa Education was created through the Govt. notification dated 24.10.2005 (Annexure-B) and the serving staff under the Deputy Director of Madrassa Education were posted in the Directorate of Madrassa Education. Their grievances pertain to not granting of higher service benefits envisaged for Directorate level employees of the Directorate of Madrassa Education.

3. Mr. A.R. Bhuiyan, learned counsel projects that the petitioners are receiving salary only at par with district level employees since as they are serving in the Directorate of Madrassa since 24.10.2005, they are entitled to receive higher emoluments at par with Directorate level employees under the Assam Government.

4. Discrimination is also alleged by the petitioners on account of the fact that the erstwhile employees from the Directorate of Non Formal and Adult Education, who were similarly posted in the Directorate of Madrassa Education are being paid higher salary as Directorate staff. The learned counsel refers to the duty roster of the Directorate staff notified on 21.05.2007 (annexure-J) to project that the service rendered by the petitioners as erstwhile employees of the Deputy Directorate of Madrassa Education is same in the Directorate of Madrassa Education, as the erstwhile employees of the Directorate of Non Formal and Adult Education.

5. Mr. SMT Chistie, Standing Counsel, Education Department refers to the counter affidavit filed by the DSE, Assam on 02.05.2009 to project that the proposal for upgradation of the service condition of the erstwhile employees under the Deputy Directorate of Madrassa Education was rejected by the Government on 08.05.2008 (Annexure-N) and accordingly the departmental lawyer submits that no relief can be granted to the petitioner.

6. But it appears that one group of employees discharging similar function in the Directorate of Madrassa Education are receiving lesser emoluments than the erstwhile employees of the Directorate of Non Formal and Adult Education and accordingly there appears to be discrimination amongst two sets of employees, in the Directorate of Madrassa Education. That apart, in the impugned order dated 08.05.2008 (Annexure-N), no reasons are indicated for rejecting the proposal for upgradation, given by the Directorate of Madrassa Education on 03.08.2008 (Annexure-M). Therefore, this court is unable to see whether the rejection of the proposal was based on any legally acceptable principle.

7. In view of above and since the aggrieved petitioners had addressed a representation on 21.08.26 (Annexure-H) to the Commissioner and Secretary to the Government of Assam, Education (Secondary) Department, I am of the view that direction should be issued to the Commissioner to pass a speaking order on the pending representation of the aggrieved employees of the Directorate of Madrasa Education. To facilitate the exercise, the petitioners are permitted to furnish this order and their writ petition to the Commissioner, who shall consider the grieva

nces of the petitioners on merit. The requisite exercise be completed expeditiously and preferably within 8 weeks after receipt of the intimation from the petitioners.

8. The case is disposed of with the above direction. The impugned order dated 08.05.2008 (Annexure-N) will abide by the final decision of the Commissioner.