

WP(C) 5101/2016
BEFORE
HON'BLE MR JUSTICE UJJAL BHUYAN

Heard Mr. C. Goswami, learned counsel for the petitioners, Mr. C. Bhattacharjee, learned Standing Counsel, Secondary Education Department, Govt. of Assam and Mr. R. Borpujari, learned Standing Counsel, Finance Department.

23 petitioners have joined together and have instituted the present comm on proceeding under Article 226 of the Constitution of India seeking a direction to the respondents to pay cash equivalent of unutilized earned leave at the credit of each of the petitioners on their superannuation up-to a maximum limit of 300 days as part of their retirement package.

Petitioners are retired teachers of different High Schools in the district of Lakhimpur. On their retirement, they were granted retirement benefit of cash equivalent of unutilized earned leave at their credit for periods ranging from 80 days to 144 days.

According to learned counsel for the petitioners, they are entitled to cash equivalent of maximum of 300 days of unutilized earned leave on superannuation irrespective of whether one was a Headmaster or Assistant Teacher or non-teaching staff, the distinction between vacation department and non-vacation department having been removed.

Mr. Borpujari, learned Standing Counsel, Finance Department, while generally agreeing to the submissions made by learned counsel for the petitioners, however, submits that in so far vacation department is concerned, an incumbent is entitled to 10 days earned leave per year whereas in respect of non-vacation department, an incumbent is entitled to 30 days earned leave per year but overall, both categories are entitled to maximum of 300 days unutilized earned leave.

Mr. Bhattacharjee, learned Standing Counsel, Secondary Education Department, submits that in so far individual claims of the petitioners are concerned, it will require verification by the departmental authorities.

Having regard to the above and the general consensus at the Bar, it is hereby directed that petitioners would be entitled to cash equivalent of unutilized earned leave at the credit of each of the petitioners on their superannuation up-to the maximum limit of 300 days. Director of Secondary Education, Assam, shall carry out necessary verification in respect of the petitioners whereafter they shall be paid the leave encashment of unutilized earned leave up-to a maximum of 300 days minus the benefit already availed of by the petitioners. The above exercise shall be carried out within four months from the date of receipt of a certified copy of this order.

Writ petition is disposed of.