

Heard Mr. PKR Choudhury, learned counsel for the petitioners. Also heard Mr. A Deka, learned Standing counsel, Education Department.

The petitioners, in this writ petition, claims for their arrear as well as current salary from March, 2015.

By the earlier judgment and order of this Court dated 06.05.2014, in WP(C)No.4927/2012, it has been provided that accordingly a writ of mandamus is issued to the respondent authorities to pay the current salary of the petitioners within a period of 1 month from the date of receipt of this order and to release the arrear salary of the petitioners within a period of 3 months from the date of receipt of this order. The respondents are also given the liberty to complete the enquiry stated to have been undertaken pursuant to the letter dated 09.05.2012 (Annexure-12 of the writ petitions). It is, however, made clear that petitioners will continue to receive their salary unless a contrary decision is taken pursuant to the enquiry conducted, in which event, the petitioners will be at liberty to take recourse to such action as is permissible in law.

The aforesaid direction of this Court is unambiguous and clear that till a decision is taken by the respondent authorities as regards payment of salary, the respondents will continue to pay their current salary. The petitioners are all appointed as Assistant Teachers in Nazira Sub-Division of District Sivasagar and there is a stand taken by the Education Department that the petitioners were appointed in excess to the available numbers of post, at the time, when they were appointed. Accordingly, the respondent authorities seeks to justify the non-payment of salary to the petitioners, but, however, as the issue had already been decided by this Court in the order dated 06.05.2014 in WP(C)No.4927/2012, the aforesaid stand of the respondents is no further available and the respondents are bound by the decision of this Court. The Commissioner and Secretary, Govt. of Assam, has filed the affidavit dated 15.12.2016, wherein in paragraphs 7 and 8, it has been stated that the Govt. of Assam after constituting the Divisional Screening Committee in the month of June, 2014 had furnished its report to the Government, but in the meantime, as the Government has received certain complaint petition from the teachers, therefore, the Government had decided for re-verification of the particulars of the applicant by the Screening Committee. Paragraphs 7 and 8 of the said affidavit are quoted hereinbelow:

7. That the deponent states that after preliminary screening of applications throughout the State including the group of 1476 Nos. of teachers of Sivasagar District, the report had been sent to the Government. Thereafter, the Government had further constituted Divisional Screening Committees in the month of June, 2014 to examine the report of preliminary screening committees. The cases of 1476 Nos. of supernumerary teachers including the petitioners under Sivasagar District are also examined by the Divisional Screening Committee. The Divisional Screening Committees had furnished its report to the Government.

8. That in the meanwhile Government have received complaint petitions from teachers, whose cases were examined in response to their applications pertaining to Dhemaji, Lakhimur, Sivasagar and Darrang District. Such teachers claim that some of the particulars in the report are not reflected as per their documents submitted during the time of hearing. The claims mainly relates to the working status as reflected in the working details of the data sheet. Considering all aspects of the matter, the Government has decided for re-verification of the particulars of the applicants by the screening committees in respect of the aforesaid

d four district, which shall be completed within a period of 2(two) months and in this regard, the deponent has issued a notification on 03.01.2016 .

From a consideration of the stand taken by the respondent, Education Department in the affidavit of the Commissioner and Secretary, it is apparent that a contrary decision as contemplated in the earlier order dated 06.05.2014 had not yet been arrived at by the respondent authorities. In such view of the matter, this Court cannot take any other contrary view and is bound to follow the earlier direction of this Court dated 06.05.2014 in WP(C)No.4927/2012. Accordingly, this writ petition is disposed of with a direction that as contained in the earlier order dated 06.05.2014, the respondent authorities shall continue to pay the arrear and current salary to the petitioner till a contrary decision is arrived at by the respondent authorities.

It is stated that as per the earlier order of 06.05.2014, the petitioner were paid their salary and allowances upto February, 2015 and, therefore, their salary and allowances from March, 2015 till date would be construed to be arrear salary. The current salary henceforth shall be continued to be paid till a decision is arrived at and the respondents shall also pay the salary from February, 2015 till date.

In terms of the above, this writ petition stands disposed of.