

GAHC010030212021



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

**Case No. : WP(C)/1189/2021**

MD. JOYNAL ABDIN  
S/O LATE JUBED ALI, RETIRED A/T ISLAMPUR ME MADRASSA,  
PERMANENT R/O VILL. BORCHAKABAHA, P.O. TOKUNABORI, DIST.  
MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF  
ASSAM, DEPTT. OF FINANCE DISPUR, GUWAHATI 781006

2:THE COMMISSIONER AND SECY.  
DEPTT. OF ELEMENTARY EDUCATION  
DISPUR  
GUWAHATI 781006

3:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA  
GUWAHATI 781019

4:DEPUTY INSPECTOR (D.I.)  
MORIGAON

5:DIRECTOR OF PENSION

ASSAM  
HOUSE FED COMPLEX  
LAST GATE  
DISPUR  
GUWAHATI 78100

**Advocate for the Petitioner : MR. N ISLAM**

**Advocate for the Respondent : SC, ELEM. EDU**

**BEFORE  
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

**JUDGMENT**

**Date : 26-02-2021**

Heard Ms. Th A Devi, learned counsel for the petitioner. Also heard Mr. N. Phukan, learned counsel for the respondents No. 2, 3 and 4, Mr. A. Chaliha, learned counsel for the respondent No.1 and Mr. B. Deuri, learned counsel for the respondent No.5.

2. The petitioner was a retired A/T of Islampur ME Madrassa Morigaon in the district of Morigaon, who had retired from service on 31.05.2019. He was granted all other retirement benefits except the leave encashment which was granted for 61 days instead of the maximum period of 300 days.

3. In the aforesaid premises, this writ petition has been preferred for a direction to the respondent authorities to grant the petitioner the leave encashment upto a period of 300 days.

4. The issue as to whether the retired Teachers under the Education Department, Assam are entitled to leave encashment upto a period of 300 days has been settled by this Court in its judgment and order dated 02.06.2011 rendered in Khagendra Nath Deka and others Vs. State of Assam and Others passed in WP(C)No.9851/2003.

5. In the aforesaid judgment, it has been held that the retired employees under the Education Department are entitled to leave encashment for a maximum of 300 days. The said decision has also been followed in a number of subsequent orders of this Court.

6. The learned counsel for the parties including that of the respondents agree that the grievance raised in this writ petition is covered by the aforesaid judgment and order of this Court dated 02.06.2011 rendered in Khagendra Nath Deka and others Vs. State of Assam and Others.

7. In view of the aforesaid consensus, this writ petition is disposed of by directing the

respondentNo.3 being the Director of Elementary Education, Assam to examine the case of the petitioner and in the event, it is found that the petitioner was entitled to leave encashment for the unutilized earned leave upto maximum of 300 days, the same be granted to the petitioner by passing a speaking order.

8. The aforesaid direction be carried out by the Director of Elementary Education, Assam within a period of 3(three) months from the date of receipt of a certified copy of this order.

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

**JUDGE**

**Comparing Assistant**