

GAHC010090472021



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

**Case No. : WP(C)/3428/2021**

NARESH CH. MONDAL  
S/O- LT. NARAYAN CH. MONDAL, R/O- VILL- BOWALIMARI, P.O. LALMATI,  
DIST.- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,  
EDUCATION ELEMENTARY DEPTT., DISPUR, GHY-6

2:THE DIRECTOR  
ELEMENTARY EDUCATION ASSAM  
KAHILIPARA  
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
BONGAIGAON  
DIST.- BONGAIGAON  
ASSAM

4:THE HEAD MASTER  
791 NO. PACHIM AMGURI L.P.SCHOO

**Advocate for the Petitioner : MR. A R BHUYAN**

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

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

**O R D E R**

**30.07.2021**

Heard Mr. AR Bhuyan, learned counsel for the petitioner and Mr. NJ Khataniar, learned counsel appearing for the respondent Nos. 1, 2 and 3 being the authorities in the Elementary Education Department, Government of Assam. Considering the nature of the order proposed to be passed, we deem it appropriate that notice need not be issued to the respondent No.4 at this stage.

2. The petitioner claims to have been appointed pursuant to a selection process by the Advisory Board of Bongaigaon district as an Assistant Teacher in the Choto Barjana M.E Madrassa on 28.02.1994. The petitioner also claims that subsequently by virtue of a Cabinet decision, the services of the petitioner were regularized along with 124 numbers of teachers of the Bongaigaon district. Pursuant to such Cabinet decision, the petitioner was regularized in service as per the order of the Director of Elementary Education, Assam dated 30.01.2006. Such regularization was made along with 124 numbers of other teachers of Bongaigaon district.

3. The Cabinet decision to regularize the 124 numbers of teachers was assailed in WP(C) No.2346/2008 and by the judgment and order dated 08.05.2013, the decision for regularization was set aside. Another teacher Anjumanara Khatun at that stage had instituted WP(C) No.5904/2014 claiming salary. Upon her writ petition being dismissed, Anjumanara Khatun instituted WA No.55/2015, which was given a final consideration by the order dated 31.03.2015. By the said judgment, the Division Bench took note of the attending facts and circumstances of the appointment and the subsequent

service conditions of Anjumanara Khatun and accordingly in paragraph 14 thereof, arrived at its opinion that Anjumanara Khatun was entitled to her salary from 30.01.2006. Consequently, a direction was issued for payment of salary to Anjumanara Khatun.

4. Mr. AR Bhuyan, learned counsel for the petitioner makes a submission that the factual background of the appointment and the other service conditions of the present writ petitioner is also similar to that of Anjumanara Khatun and therefore, the conclusion arrived at by the Division Bench in the order dated 31.03.2015 in WA 55/2015 would also be applicable in respect of the present petitioner. On the basis of such submission, Mr. AR Bhuyan, learned counsel for the petitioner prays that the salary of the present petitioner be also directed to be paid in a similar manner.

5. Mr. NJ Khataniar, learned counsel for the Elementary Education Department has made a fair submission that at this stage only a notice can be issued and no further order would be justifiable.

6. Otherwise we would have been in agreement with Mr. NJ Khataniar for only issuing a notice at this stage, but Mr. AR Bhuyan, learned counsel for the petitioner states that the writ petitioner is going to superannuate from service in the month of September, 2021 i.e. hardly within a period of two months. In the said circumstance, if a notice is issued and by the time the State respondents file their response, the petitioner would retire from service and his entitlement would remain undecided.

7. In the circumstance, we deem it appropriate that the ends of justice would be met if the writ petitioner makes a representation before the Director of Elementary Education, Assam raising all the claims made in this petition

including his claim that the petitioner is actually similarly situated like that of Anjumanara Khatun and therefore the decision dated 31.03.2015 in WA 55/2015 would also cover his case. In requiring the Director to consider such representation, we make it clear that there is no conclusion arrived at by this Court that the claim of the petitioner is similar to that of WA 55/2015. All that we require is that the Director will apply his own independent application of mind to verify the factual background of the petitioner and pass a reasoned on his entitlement of payment of salary.

8. The requirement of passing the reasoned order be done within a period of one month from the date of receipt of a certified copy of this order and in no circumstance it shall be at any period subsequent to the retirement of the petitioner.

The writ petition is disposed of in the above terms.

**JUDGE**

**Comparing Assistant**