

GAHC010073162022



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

Case No. : WP(C)/2773/2022

EMILY TUDU AND 9 ORS

W/O- LATE NOEL KANDULNA, RETD. H.T. RESTAKPUR, P.O. SRIRAMPUR,
DIST. KOKRAJHAR, BTR, ASSAM, PIN- 783361.

2: PRAMILA SOREN

W/O- LATE GANESH NATTA
RETD. H.T. HARAPUTA TELIPARA L.P. SCHOOL
VILL.- MATIAJURI
P.O. HARAPUTA
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783361.

3: SARKAR MARANDI

S/O- LATE RAM MARANDI
RETD. H.T. DAMRAPARA L.P. SCHOOL
VILL.- BHAIRIGURI
P.O. SRIRAMPUR
DIST.KOKRAJHAR
BTR
ASSAM
PIN- 783361.

4: GANESH CH. KARMAKAR

S/O- SHYAM KARMAKAR
RETD. A.T. OF BAONAI L.P. SCHOOL
VILL.- HESPES
P.O. SATYAPUR
DIST.- KOKRAJHAR
BTR
ASSAM
PIN- 783361.

5: KHAGESWAR SAH
S/O- LATE SASDEO SAH
RETD. A.T. OF M.G.R. L.P. SCHOOL
VILL.- SRIRAMPUR
P.O. SRIRAMPUR
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783361.

6: RAHEL SOREN
W/O- BESWAR TUDU
RETD. H.T. OF 1123 NO. HARAPUTA L.P. SCHOOL
VILL.- SRIRAMPUR
P.O. SRIRAMPUR
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783361.

7: IMANUEL MURMU
S/O- LATE PHUDAN MURMU
RETD. H.T. OF 1123 NO. HARAPUTA L.P. SCHOOL. VILL.- PADMABIL
P.O. GOSSAIGAON
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783360.

8: ATUL CH. RAY
S/O- LATE HARENDRA NATH RAY
RETD. H.T. OF 738 NO. GRAHAMPUR L.P. SCHOOL
VILL.- BASANTIPUR MUSALMAN PARA
P.O. DINGDINGA
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783333.

9: SRIKANTA SIKDAR
S/O- LATE JAGADISH CH. SIKDAR
RETD. H.T. OF 1121 NO. MALLIKA PUR L.P. SCHOOL
VILL.- BASANTIPUR MUSALMAN PARA
P.O. DINGDINGA
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783333.

10: MARTHA HASDAK
W/O- LATE RABILAL MURMU
RETD. H.T. 1122 NO. KARTINGPUR L.P. SCHOOL
VILL.- JOYPUR
P.O. DINGDINGA
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783333

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE (ESTT.-A) DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
P.O. AND DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783370.

5:THE DEPUTY INSPECTOR OF SCHOOLS
P.O. AND DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783370

Advocate for the Petitioner : MR. P K DEKA

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 29-04-2022

Heard Mr. PK Deka, learned counsel for the petitioner and Mr. PN Sarma, learned counsel appearing for respondent Nos.1 & 3, Mr. R Borpujari, learned Standing counsel, Finance Department appearing for respondent No.2 and Mr. R.K. Mushahary, learned counsel for respondent No.4.

The instant writ petition is taken up for disposal at the motion stage itself taking into account that this Court had already passed similar directions in respect to similarly situated persons like the petitioners in WP(C) No.2674/2022.

The petitioners herein are all retired Head Masters as well as Assistant Teachers of different L.P. Schools of the Kokrajhar district and have instituted the writ petition on the grievance that under the law they are entitled to a maximum of 300 days of earned leave being 30 days per year and for the entire period they are entitled to have not been paid to them by the respondent authorities.

From the chart which has been enclosed as Annexure – 1 to the writ petition, it shows how much of earned leave have been accumulated in respect to the respective petitioners and what amount have actually been paid to them.

The individual facts of the petitioners as regards the entitlement of the balance of the earned leave cannot be determined in an application under Article 226 of the Constitution, that to, in a petition filed jointly by all of the petitioners. The entitlement of the petitioners would depend on individual facts for the purpose of determining their eligibility.

In the circumstances, this Court is of the view that ends of justice would be met if the petitioners file individual representations before the Director of Elementary Education Department, Assam for making their respective claims for balance of the earned leave they are entitled and on individual application to the representations being submitted, the Director shall pass reasoned individual orders to the representations within a period of 3 (three) months from the date of submission of the representation along with certified copy of this order and a copy of the instant writ petition.

In doing so, the Director shall take note of that under law the petitioners are entitled to a maximum of 300 days earned leave being 30 days per year. But the actual entitlement would depend on the balance of number of days of earned leave for which they have not been paid and it should not be construed that they are to be paid for the entire 300 days as because the law has been laid down in this respect.

The writ petition stands disposed of.

JUDGE

Comparing Assistant