
(2018) 02 GAU CK 0010
In the Gauhati High Court
Case No : 256 of 2018

JATINDRA NATH SARMA

APPELLANT

Vs

THE STATE OF ASSAM and ORS

RESPONDENT

Date of Decision : 26-02-2018

Acts Referred:

Citation : (2018) 02 GAU CK 0010

Hon'ble Judges : Achintya Malla Bujor Barua

Bench : Single Bench

Advocate : R. Sarma, N. Sarma, R.D Bhuyan

Final Decision : Disposed

Judgement

1. Heard Mr. R. Sarma, learned counsel for the petitioner, Mr. N. Sarma, learned Standing Counsel for the Elementary Education Department and

Ms. R.D Bhuyan, learned counsel appearing for the Director of Pension.

2. The petitioner, who was a graduate by qualification was appointed as an Assistant Teacher of Dakhin Nalbari Bidyapith ME School, Nalbari by

the School Managing Committee on 10.05.1977 and he is one of the founder teacher of the school. The concerned school was provincialised from

01.02.1985, but upon provincialisation, the petitioner along with some other similarly situated teachers were allowed to draw their pay in the

intermediate scale of pay. Consequently, they approached this Court by way of a writ petition being Civil Rule No.3979/1995. By the order of

15.12.1995 in Civil Rule No.3979/1995, this Court had directed the respondent No.3 being the District Elementary Education Officer, Nalbari to

consider the claim of the petitioners for payment of their salary and allowances in the scale of Rs.1375- 3375/-, which in fact was the graduate

scale of pay. Accordingly, by the order of 28.12.1995, the District Elementary Education Officer, Nalbari in compliance of the order dated

15.12.1995, had allowed the petitioner along with some other similarly situated persons to draw the graduate scale of pay. The petitioner as such

continued in service and had superannuated on 31.01.2014.

3. In this writ petition, the petitioner is aggrieved by a communication dated 18.07.2017 of the Finance and Accounts Officer in the Directorate of

Pension, Assam. By the said communication, the District Elementary Education Officer, Nalbari was informed that the process of paying regular

pension could not be finalized inasmuch as although by the order of 15.12.1995, this Court had directed payment in the scale of pay of Rs.1375-

3375/- from the date of provincialisation i.e. 01.02.1985, but in fact, the said scale of pay of Rs.1335-3375/- came into existence only w.e.f.

01.01.1989.

4. From the said communication of the Finance and Accounts Officer, it is apparent that from 01.01.1989, there was a revision of pay scale and

the scale of Rs.1335-3375/- came into effect from that day. But at the same time, when the purport of the order dated 15.12.1995 of this Court in

CR No.3979/1995 is looked into, it is noticed that what the Court had granted to the petitioner was that they are entitled to a graduate scale of

pay from the date of provincialisation. In other words, the petitioner is entitled to a graduate scale of pay in the pay scale as it existed as on

01.02.1985 when the school was provincialised.

5. With the aforesaid clarification, the Pension Department as well as the Education Department is required to work out as to what would have

been the graduate scale of pay applicable to the petitioner at the time of provincialisation on 01.02.1985 and accordingly arrive at a conclusion that

the direction of this Court in the order dated 15.12.1995 was to pay that particular graduate scale of pay as it existed on that day. Thereafter, the

departmental authorities shall take into consideration that there was a revision of pay scale in 01.01.1989. By taking into account the aforesaid

facts and circumstances, the department shall work out as to what should be the pension payable to the petitioner and accordingly finalize and pay

the pension to the petitioner. For the purpose as required by the communication of 18.07.2017, the District Elementary Education Officer, Nalbari

shall send the revised proposal to the Pension Department within a period of one month from the date of receipt of a certified copy of this order

and thereafter within a period of another one month, the Director of Pension shall finalize and settle the regular pension of the petitioner. In terms of

the above, the writ petition stands disposed of.