
(2021) 03 GAU CK 0020
In the Gauhati High Court
Case No : Writ Petition (C) No. 1796 Of 2021

Md. Kitab Ali Farazi

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 19-03-2021

Acts Referred:

Citation : (2021) 03 GAU CK 0020

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : N Islam

Final Decision : Disposed Off

Judgement

1. Heard Mr. N. Islam, learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned counsel for the respondent No.1, Mr. A. Phukan, learned counsel for the respondents No. 2, 3 and 4 and Mr. S.R. Baruah, learned counsel for the respondent No.5.

2. The petitioner was a retired Head Teacher of Uttar Holowkanda L.P. School in the district of Morigaon, who had retired from service on 31.01.2020. He was granted all other retirement benefits except the leave encashment which was granted for 196 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.