

**(1996) 06 GAU CK 0019**  
**In the Gauhati High Court**  
**Case No : Writ Appeal No. 193 of 1993**

Nilima Devi

APPELLANT

Vs

State of Assam and Others

RESPONDENT

**Date of Decision :** 12-06-1996

**Acts Referred:**

**Citation :** (1997) 3 GLR 309

**Hon'ble Judges :** S.B. Roy, J;D.N. Baruah, J

**Bench :** Division Bench

**Advocate :** N. Dutta and B.D. Goswami, for the Appellant; B.P. Borah, Sr. G.A. and J. Ahmed, G.A., for the Respondent

**Final Decision :** Allowed

## Judgement

D.N. Baruah, J.—This writ appeal is directed against the judgment and order dated 20.8.93 passed by the learned Single Judge dismissing the writ petition.

2. For the purpose of disposal of this appeal the facts may be stated in brief as follows:

The Appellant-Petitioner was appointed lecturer in Sanskrit by annexure-IIA order dated 12.9.86 to the writ petition. This appointment was subject to the approval of the Governing Body of the College. Thereafter on 7.11.86 the College made an advertisement for the post of lecturer in Sanskrit. Pursuant to the said advertisement the Appellant Petitioner along with some other persons including the 5th Respondent applied for the post. On 8.3.87 the interview was held and the 5th Respondent was selected by the Governing Body of the College by a resolution adopted on 18.5.87 for appointment to the said post. As required the resolution was sent for approval to the DPI and DPI approved the same on 24.7.87. Being aggrieved the Petitioner Appellant approached this Court by filing Civil Rule No. 910/1987. In Misc. Case No. 1008/1987 this portion of the stay order dated 4.9.87 is extracted below:

We accordingly order that status quo as of today as regards the Petitioner's

holding the post of Lecturer in Sanskrit in Arya Vidyapeeth College shall continue pending decision of the Civil Rule.

Several petitions were filed for vacation of the stay order both by the College as well as the private Respondent. However, this Court declined to vacate the stay order. On the basis of that the Petitioner was continuing in the said post till 31.10.88. During the pendency of the Civil Rule the Petitioner left the College on 31.10.88 after submitting resignation which was duly accepted. Thereafter the Petitioner submitted an application on 15.6.93 in the said Civil Rule for amendment of the relief. As the Petitioner had already left the College she did not insist on the point of challenge regarding the approval of the appointment of 5th Respondent. However, she prayed for the pecuniary benefits which she was entitled to, According to the Petitioner she was not given monthly salary for the period from March 1988 to October 1988, Besides from 12.9.86 to the end of February, 1988 she was only paid salary in the old scale though she was entitled to the revised scale which was prevalent at that time. But the learned Single Judge dismissed the prayer holding that the claim was vague. Hence that the present appeal.

3. We have heard Mr. N. Dutta, learned Counsel appearing on behalf of the Appellant Petitioner and Mr. B.P. Bora, learned Senior Government Advocate, Assam for the Respondent Nos. 1 and 2.

4. Mr. Dutta has raised only one point, that is, the Appellant Petitioner was entitled to get the salary as per the Rule prevalent at that point of time and also entitled to get the full salary from March 1988 to October, 1988. Mr. Bora submits that the Appellant Petitioner should be paid her salary for the period in question if she worked. We find that the submission of Mr. Bora is quite reasonable.

5. None appear on behalf of the Respondent Nos. 3, 4 and 5 today. When the case came up for hearing yesterday, that is, on 11.6.96 there was also no representation on behalf of Respondent Nos. 3, 4 and 5.

6. It is well established principle of law that if a person works he is entitled to receive remuneration as per the Rule. In this case the Petitioner's claim is that she was not given full salary from 12.9.86 to February, 1988. She was only given salary the (sic) old scale though at that point of time the new scale came into force. Therefore, she is entitled to receive the full salary as per the new scale. She is also entitled to receive salary from March, 1988 to October, 1988.

7. Accordingly, we allow the appeal to the extent that the Petitioner shall be paid the balance salary as per the new scale for the period from 12.9.86 to the end (sic) February, 1988 if she has already worked and she is also entitled to get her salary (sic) the period from March, 1988 to October, 1988. The amount shall be paid by the Respondent Nos. 1 to 4 within a period of two months from today.

8. Considering the facts and circumstances of the case we make no order as to

(sic)s.