

GAHC010182782023



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2026:GAU-AS:8116-

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

Case No. : WA/216/2024

AINESWARI PATIR
W/O LATE MANIRAM PATIR@ MONIRAM PATIR, VILL.- BILLMUKH, P.O.-
GHILAMARA, DIST.- LAKHIMPUR, ASSAM, PIN- 787053.

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT., DISPUR, GHY- 6.

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY- 6.

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

4:THE JOINT DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY- 19.

5:THE DIST. ELEMENTARY EDUCATION OFFICER
LAKHIMPUR.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
BORDOLONI GHILAMARA LAKHIMPUR
ASSAM

PIN- 787053.

7:THE DY. INSPECTOR OF SCHOOLS
DHAKUAKHANA
LAKHIMPUR
PIN- 787055.

8:THE SUB-INSPECTOR OF SCHOOLS
DHAKUAKHANA
LAKHIMPUR
PIN- 787055.

9:THE TREASURY OFFICER
DHAKUAKHANA
LAKHIMPUR
PIN- 787055

Advocate for the Petitioner : MR S BORTHAKUR, MR. D GOGOI

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

BEFORE

HON'BLE THE CHIEF JUSTICE ASHUTOSH KUMAR

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Appellant :Mr. S Borthakur, Sr. Advocate,
assisted by Mr D Gogoi, Advocate

For the Respondents:Mr. SK Talukdar, SC,
Elementary Education Department

Date on which the Judgment is

Reserved: NA

Date of the pronouncement of

Judgment: 09.06.2026

Whether the pronouncement

is the operative part of the

Judgment : NA.

Whether the full Judgment has

been pronounced : Yes.

JUDGMENT & ORDER (ORAL)

(A.D.Choudhury, J)

1. This intra-court appeal calls into question the correctness of the judgment and order of the learned Single Judge dated 18.07.2023, passed in WP(C) No. 2123/2016.
2. The present appeal raises a question which transcends the confines of service jurisprudence. It concerns the obligation of a Constitutional State towards an employee whom it appointed, regularised, promoted, and continuously retained in service for more than two decades, but whose salary was abruptly discontinued after the State sought to revisit the circumstances of his appointment.
3. The facts are on a narrow compass and are undisputed.
4. The appellant is the widow of Late Maniram Patir. The deceased employee was initially appointed as a stipendiary teacher in 1985. Upon his failure to qualify in the Junior Basic Training Examination within the prescribed

number of attempts stipulated in his appointment order, his service was terminated.

5. Subsequently, pursuant to a policy decision of the Education Department dated 06.06.1989, permitting consideration for reappointment of those stipendiary teachers who succeeded in the Junior Basic Training Examination in their third attempts, the Director of Elementary Education directed consideration of the case of the husband of the appellant.

6. Acting thereupon, the competent authority appointed him on 02.03.1991 against a vacant sanctioned post occasioned by the retirement of an incumbent teacher, inasmuch as it is not in dispute that the husband of the appellant was successful in passing the Junior Basic Training Examination in his third attempt.

7. The significance of these facts lie in what followed thereafter.

The State accepted the appointment as valid. The deceased employee was transferred in the ordinary course of service. His service was regularised on 02.08.1995. He continued to discharge duties for decades. The State paid him salaries regularly till October, 2013.

At no stage during this period was any proceeding initiated questioning the validity of his appointment. The State did not seek cancellation of his appointment, withdrawal of regularisation or termination of service.

On the contrary, the administrative record demonstrated continuous acceptance of his status as a regular teacher.

8. The learned Single Judge rejected the prayer of the husband of the appellant made in the writ petition for a direction to release the monthly salary with effect from November, 2013, principally on the grounds that the appointment dated 02.03.1991 was linked to an interim order passed in Civil Rule No. 1344/1988 and that upon dismissal of the said proceeding for non prosecution, the foundation of the appointment disappeared.

9. The aforesaid Civil Rule was preferred , seeking interference with the termination of the service of the husband of the appellant when he failed to pass Junior Basic Training on his second attempt.
10. It was the conclusion of the learned Single Judge that upon dismissal of the said Civil Rule, the foundation of the appointment of the husband of the appellant disappeared.
11. We are unable to subscribe to the aforesaid decision.
12. The order of appointment dated 02.03.1991 itself indicates that the authority acted not merely because of an interim order that had been passed in the Civil Rule, staying such termination, but for the reason that the Education Department had adopted a policy enabling consideration of reappointment of teachers who are successful in passing the Junior Basic Training in their third attempt.
13. The Director of Elementary Education had specifically directed consideration of such cases. The appointment was against an available vacancy. The State thereafter consciously treated the appointment as valid for more than 22 years.
14. The doctrine that an interim order merges with the final outcome of the proceeding cannot be mechanically applied in a situation where an independent administrative decision has subsequently intervened.
15. In the present case, the appointment of the deceased employee acquired a distinct legal character. Once the State regularised his services and continued to retain him in service for decades, to permit the State to reopen, the validity of such appointment, after enjoying the benefit of his services for over two decades, would amount to permitting administrative arbitrariness of the highest order.
16. The Constitution does not countenance such conduct.

Article 14 embodies not only equality before the law but also fairness in State

action. A public employer cannot approbate and reprobate.

17. Having accepted the services of an employee, regularised him, paid him salaries for years and entrusted him with the responsibilities attached to public office, the State cannot, after the passage of decades, deny him the fruits of service on a technical objection concerning the origin of his appointment.
18. Service jurisprudence recognises a distinction between a void appointment and an irregular appointment, which may suffer from some procedural irregularity. The present case falls in neither category, requiring denial of all benefits.
19. The appointment was made by the Competent Authority in accordance with a clear policy; it was acted upon by the State; it was followed by regularisation; and it remained unquestioned for decades. The State cannot now contend that the employee was a stranger to service.
20. Equally significant is the fact that the deceased employee's salary was stopped in November, 2013 without any order terminating his services and without affording him any opportunity of hearing.
21. Salary is not a bounty; it is consideration for work performed. An employee who has admittedly discharged his duties cannot be deprived of salary by an executive fiat unsupported by law, more particularly when the employment is neither void nor illegal nor suffers from any procedural irregularity.
22. The landed Single Judge relied on the dismissal of Civil Rule No. 1344/1988 and alleged suppression thereof.
23. In our considered view, the issue before the court was not the revival of rights flowing from that proceeding. The issue was whether the State could deny salary and other benefits after having treated the employee as a regular employee for more than two decades, after duly reappointing him under its clear policy on the acquisition of the required qualification.

24. The answer to the question must be in negative.
25. Courts exercising jurisdiction under Article 226 are guardians against arbitrariness in State action. Constitutional adjudication cannot lose sight of lived realities.
26. The deceased employee served the Education Department throughout the productive years of his life. He sought payment of the salary withheld from him. During the pendency of the proceeding, he passed away. To deny his widow the financial benefits legitimately accruing from such service would amount to rewarding administrative inconsistency and penalising an employee for acts entirely attributable to the State.
27. We are therefore of the considered view that the learned Single Judge erred in dismissing the writ petition.
28. Accordingly, the judgment and order dated 18.07.2023 passed in WP(C) No. 2123/2016 is accordingly set aside.
29. The respondents are directed to treat the service rendered by Late Maniram Patir, pursuant to his appointment dated 02.03.1991 and regularization dated 02.08.1995, as valid service for all consequential purposes.
30. The respondents shall compute and release the entire arrear salary and admissible allowances payable to Late Maniram Patir from November, 2013 till the date of his death.
31. Upon such computation, the respondents shall further determine all retirement and death cum retirement benefits payable to the appellant as the widow and legal heir of the deceased employee, including family pension and arrears thereof, in accordance with law.
32. The entire exercise of computation and disbursement of arrears of salary, pensionary dues, family pension and consequential monetary benefit shall be completed within a period of four months from the date of receipt of the certified copy of this judgment to be furnished by the appellant before the

respondents.

33. In the event that the aforesaid amount is not released within the stipulated period, the outstanding amount shall carry interest at the rate of 9% per annum from the expiry of the fourth month period till actual payment.
34. The appeal is accordingly allowed. No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant