

GAHC010279702023



2025:GAU-AS:6569

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

Case No. : WP(C)/7474/2023

JURI BARUAH
W/O- KABIN CHOUDHURY, MUSIC TEACHER, BANI KANTA MEMORIAL
H.S SCHOOL, GUWAHATI,
R/O- HOUSE NO-7, SARUMOTORIA, KUNDIL NAGAR PATH, GUWAHATI,
KAMRUP (M), ASSAM, PIN-781006

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE SECRETARY, TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY EDUCATION), ,
DISPUR, GUWAHATI- 781006., ASSAM

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM KAHILIPARA
GUWAHATI-19

3:THE INSPECTOR OF SCHOOLS

KAMRUP DISTRICT CIRCLE
KAMRUP (M)
GUWAHATI
PAN BAZAR
ASSAM
PIN-781001

4:THE PRINCIPAL
BANI KANTA MEMORIAL H.S SCHOOL
REHABARI

GUWAHATI

KAMRUP (M)
ASSAM
PIN-781008

5:THE ACCOUNTANT GENERAL
MAIDAMGAON
BELTOLA
GUWAHATI
KAMRUP (M)
ASSAM
PIN-781029

6:THE DIRECTOR OF PENSION
HOUSEFED COMPLEX
DISPUR
GUWAHATI
ASSAM
PIN-78100

Advocate for the Petitioner : MR. A K DUTTA, MR. B PURKAYASTHA

Advocate for the Respondent : GA, ASSAM, MR. S K MEDHI (SC, AG),SC, SEC. EDU.,SC, AG

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT AND ORDER

Date : 23-05-2025

Heard Mr. B. Purkayastha, learned counsel for the petitioner. Also heard Mr. N.J. Khataniar, learned standing counsel, Secondary Education Department, appearing for respondent Nos.1—3, Ms. M. Barman, learned counsel appearing on behalf of Mr. S.K. Medhi, learned standing counsel, Accountant General (AG) Assam, respondent No.5 and Ms. D.D. Barman, learned Additional Senior Govt. Advocate, Assam, appearing for respondent No.6.

2. In this petition, under Article 226 of the Constitution of India, the petitioner, Smt. Juri Baruah, has prayed for issuing direction to the respondent authorities for quashing the communication dated 12.09.2023 (Annexure-8), issued by

the respondent No.2 and to direct the respondents to allow the petitioner to resume her service as Music Teacher of Bani Kanta Memorial H.S. School, Guwahati, by recalling the order of rejection of regularization of service of the petitioner dated 05.11.2012, issued by the Director of Secondary Education, Assam, or to pass similar order in respect of the petitioner in WP(C) No.3674/2011, dated 20.03.2012 (Annexure-10A), or alternatively to direct the respondents to grant voluntary retirement/compulsory retirement to the petitioner w.e.f. 01.12.2012 by moulding the order dated 05.11.2012 and to pay the petitioner GPF, GIS, leave salary, gratuity, commutation of pension, MACPS/ACPS, arrear salary, arrear pension, etc. within a specific period.

3. The background facts leading to filing of the present writ petition are briefly stated as under:-

The petitioner was appointed as Music Teacher vide order, dated 21.06.1994, by the Director of Secondary Education, Assam and posted her at Mirza Girls' High School and she joined as such on 30.06.1994. Thereafter, the Director of Secondary Education, Assam, vide order dated 01.07.1994 transferred and posted her as Music Teacher at Bani Kanta Memorial H.S. School, Rehabari, Guwahati in the district of Kamrup(M).

The pleaded case of the petitioner is that the State respondents had initiated a process for regularization in the year 1996 and conducted interview. But, the said process could not be brought to its logical conclusion. Thereafter, this Court vide order dated 20.03.2012 (Annexure-10A) in WP(C) No. 3674/2011, in respect of one Ranjita Sharma alias Ranjita Devi, who was the petitioner in the said writ proceeding, who is also included in the list of 22 numbers of Music Teachers, had directed the State respondents to consider the case of regularization of service of the said petitioner after conducting necessary enquiry and thereafter, the Director of Secondary Education, Assam, vide order

dated 24.02.2015 (Annexure-10B) has regularized the service of the petitioner of the aforementioned writ petition. But, in case of the present petitioner, the Director of Secondary Education vide order dated 05.11.2012 (Annexure-3A), stopped the salary of the petitioner without conducting any hearing to the petitioner and she has neither been terminated from service in accordance with law nor any departmental proceeding has been conducted against her nor show-cause notice has been issued to her giving any opportunity to place her defense. Thereafter, the petitioner approached this Court by filing one writ petition, being WP(C) No.1004/2013 and this Court vide order dated 20.02.2018 was pleased to direct the respondents to pay salary to the petitioner. Accordingly, salary was paid to the petitioner.

The further pleaded case of the petitioner is that as she has not been terminated from service by following any procedure, established by law, the petitioner submitted a representation on 29.04.2023 before the Director of Secondary Education, Assam to allow her to resume the duty. Thereafter, vide impugned communication dated 12.09.2023, the Director of Secondary Education, Assam, informed her that she has been terminated from service. Thereafter, on 20.11.2023, she filed another representation requesting to allow her to resume duty or to grant voluntary retirement benefits along with pensionary benefits w.e.f. 01.12.2012, considering the 18 years of her service on regular scale of pay.

Under the above mentioned facts and circumstances, the petitioner prayed for issuing direction to the respondent authorities, to grant her voluntary retirement, including pension and pensionary benefits accrued to her for the service rendered by her in the department, continuously for 18 years in regular scale of pay after moulding/recalling the order dated 05.11.2012 issued by the DSE, Assam.

4. The respondent authorities have filed their affidavit-in-opposition stating that the petitioner was appointed vide order dated 21.06.1994, as a Music Teacher by the Director of Secondary Education on adhoc/temporary basis for a period of 3(three) months and her service was withdrawn on 01.07.1994, from Mirza Girls High School and posted at Bani Kanta Memorial H.S. School, Guwahati and her adhoc appointment was extended for 6 months w.e.f. 01.09.1994, and thereafter, her service was not extended. She had drawn her salary up to 16.07.2001, and her claim for regularization and payment of arrear salary was rejected vide order dated 05.11.2012, by the Director of Secondary Education in view of the letter dated 24.08.2010, issued by the Government, where instruction has been issued to the effect that the Music Teachers appointed on adhoc basis without following rules, have no right to claim for the post at all, even if vacancies are there and the petitioner thereafter preferred one writ petition, being WP(C) No.1004/2013 and in view of the order passed by this Court dated 20.02.2018, the arrear salary of the petitioner w.e.f. 17.07.2001 to 30.11.2012 for a sum of Rs.17,98,046/- were paid and as the petitioner was appointed on temporary basis, she has no right to claim for regularization in the post and doctrine of legitimate expectation cannot be resorted for the purpose of regularization of service. It is also stated that in view of the decision of Hon'ble Supreme Court in the case of **State of Bihar & Ors. v. Devendra Sharma**, reported in **(2020) 15 SCC 466**, wherein it has been held that while examining the claim for grant of salary and other service benefits, right to salary *stricto sensu* springs from a legal right to validly hold the post for which salary is claimed. It is a right consequential to a valid appointment to such post and right to salary, pension and other service benefits are entirely statutory in nature in public service and as such, the appointment was illegal and *non est* in the eye of law, and no statutory entitlement for salary or consequential right of pension and other monetary benefits can be extended.

5. The petitioner has submitted her reply to the aforesaid affidavit-in-opposition, denying the statement and averment made in the said affidavit. It is also

stated that the action of the State respondents is unlawful, arbitrary as well as discriminatory, which amounts to violation of Articles 14 and 16 of the Constitution of India and the stand taken by the State respondents in the affidavit-in-opposition does not disclose the basis for allowing 21 nos. of Music Teachers to continue in service excluding the petitioner and hence, the action amounting to compel the petitioner discontinue in service is absolutely unlawful, unjust and arbitrary.

6. Mr. Purkayastha, learned counsel for the petitioner submits that while in case of Ranjita Sharma @ Ranjita Devi, a similarly situated petitioner, service was regularized pursuant to order of this Court dated 20.03.2012, the petitioner is also entitled to similar treatment. Mr. Purkayastha also submits that while the petitioner was in service, her salary was abruptly stopped vide order dated 05.11.2012. However, in view of intervention of this Court in WP(C) No.1004/2013, she was paid salary up to 30.11.2012 w.e.f. 17.07.2001 and since 05.11.2012 she has no longer been in service, but she has rendered 18 years of continuous service in the regular scale of pay and as such, she is entitled to regularization of her service and though she filed one representation on 29.04.2023 to allow her to resume duty, but the same was rejected vide impugned communication dated 12.09.2023.

6.1. Referring to a decision of Hon'ble Supreme Court in the case of **Shripal & Anr. v. Nagar Nigam, Ghaziabad**, reported in **2025 SCC OnLine SC 221**, especially in paragraph 18, Mr. Purkayastha submits that the petitioner is entitled to be regularized and also the period of her absence shall be counted as continuity in service and she will also be entitled to consequential benefits or alternatively he also suggests that the petitioner may be granted voluntary retirement and pensionary benefits w.e.f. 01.12.2012 considering her long 18 years of service and under such circumstances, Mr. Purkayastha has contended to allow this petition.

7. Per contra, Mr. N.J. Khataniar, learned standing counsel for the Secondary Education Department, vehemently opposed the petition. Mr. Khataniar referring to

the earlier writ petition preferred by the petitioner, being WP(C) No.1004/2013, submits that she has made similar prayer in the aforementioned writ petition, but the said prayer was not considered by this Court and similar prayer is made in the present petition also and in view of the principle of *res judicata*, such prayer cannot be considered by this Court. Mr. Khataniar also submits that the petitioner was appointed on adhoc basis and it was extended from time to time and thereafter, the Director of Secondary Education has taken a decision not to extend the same beyond 05.11.2012 and thereby stopped payment of her salary. But, when a direction was issued by this Court to make payment of the salary, the other prayer of the petitioner for regularization of her service was not considered by this Court and though she was appointed against a regular post, and as such, she cannot claim regularization of her service and also not entitled to service benefits being her appointment was adhoc and under such circumstances, Mr. Khataniar has contended to dismiss the petition.

8. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on record and also perused the decision of Hon'ble Supreme Court in the case of **Shripal (supra)** referred by Mr. Purkayastha, learned counsel for the petitioner and the decision in **Devendra Sharma(supra)** so referred by Mr. Khataniar, learned standing counsel for the respondent Nos. 1 to 3.

9. It appears that the basic facts in this case are not in dispute. The Director of Secondary Education, Assam had appointed the petitioner as Music Teacher vide order dated 21.06.1994 and she was posted at Mirza Girls High School and on 30.06.1994, she joined in the said post. Thereafter, vide order dated 01.07.1994, transferred and posted her as Music Teacher at Bani Kanta Memorial H.S. School, Rehabari, Guwahati in the district of Kamrup(M). Thereafter, the State respondents had initiated a process for regularization of Music Teachers in the year 1996 and conducted interview. But, the said process could not be brought to the logical conclusion. Thereafter, the Director of Secondary Education vide order dated

05.11.2012, had stopped the salary of the petitioner. The petitioner was never given an opportunity of being heard. She was also not terminated from service in accordance with law. Neither any departmental proceeding has been conducted nor any show-cause notice has been issued to the petitioner to place her defense. Her salary, having been stopped, she had approached this Court by filing WP(C) No.1004/2013, and this Court vide order dated 20.02.2018 was pleased to direct the respondents to release her salary and the same was released. The petitioner then submitted a representation on 29.04.2023 before the Director of Secondary Education, Assam to allow her to resume the duty. She was then informed vide communication dated 12.09.2023, that she has been terminated from service. Again on 20.11.2023 she filed another representation requesting to allow her to resume duty or to grant voluntary retirement benefit along with pensionary benefits w.e.f. 01.12.2012 considering the 18 years of her service on regular scale of pay. It is also not in dispute that one Ranjita Sharma, who is also a similarly situated Music Teacher and whose name appeared in the list of 22 candidates, had filed one writ petition being WP(C) No. 3674/2011, wherein a Co-ordinate Bench of this court, vide order dated 20.03.2012, (Annexure-10A) directed the State respondents to consider the case of regularization of the said petitioner after conducting necessary enquiry and thereafter, the Director of Secondary Education, Assam, vide order dated 24.02.2015 (Annexure-10B) had regularized her service.

10. Mention may be made that in the case of **Shripal (supra)**, Hon'ble Supreme Court, while disposing the aforementioned appeal issued following directions:-

“18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section

6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

- II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.
- III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.
- IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.”

- 11. It also appears that in the case Devendra Sharma (supra), Hon’ble

Supreme Court, while dealing with the appeal has found following categories of cases:-

- “(i) Appointments made on the basis of forged appointment letter. They are at S. Nos. 2 to 48.
- (ii) Appointments made on the basis of forged nursing registration certificate. They are at S. Nos. 49 to 51.
- (iii) Appointments made by a person who was not competent to make the appointment. They are at S. Nos. 52 to 92.
- (iv) There is a residual category at S. No. 1 i.e. appointment made by Dr A.A. Mallick, Dy Director, T.B. and S. Nos. 93 & 94 who are now claiming appointment. Their cases will be dealt with separately.”

12. Thereafter, Hon’ble Supreme Court in para No. 44 of the aforesaid judgment, has observed as under:-

“44. In view of the aforesaid judgments, it cannot be said that the appointment of the employees in the present set of appeals were irregular appointments. Such appointments are illegal appointment in terms of the ratio of the Supreme Court judgment in State of Karnataka vs. Umadevi (3), reported in (2006) 4 SCC 1. As such appointments were made without any sanctioned post, without any advertisement giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment. Such appointments were back door entries, an act of nepotism and favouritism and thus from any judicial standards cannot be said to be irregular appointments but are illegal appointments in wholly arbitrary process.”

13. As the case of the petitioner does not fall in any of the aforesaid categories mentioned in para -11, and clearly distinguishable from the fact of the aforementioned

case, this court afraid the ratio laid down in the case of **Devendra Sharma (supra)**, as referred by Mr. Khataniar, learned standing counsel for the respondent Nos. 1 to 3 would not come into his assistance.

14. But, admittedly the petitioner was temporarily appointed as Music Teacher initially for a period of three months and she continued in the said post till the month of November, 2012. Admittedly, she was not appointed against a regular post. While she was serving as temporary Music Teacher, the Government vide letter dated 24.08.2010 instructed that Music Teachers appointed on adhoc basis, without following the rules have no right to claim for the post at all, if vacancies are there and as such, she is not entitled to regularization and payment of salary. Thereafter, the petitioner had preferred one writ petition, being WP(C) No.1004/2013 and the same was disposed of by this Court vide order dated 20.02.2018 and in the said order a direction was issued to the Commissioner & Secretary to ascertain as to whether the petitioner is included amongst the 22 nos. of Music Teachers referred in the letter dated 27.12.2012, issued by the Deputy Director of Secondary Education and if it is found that her name is included amongst the 22 Music Teachers, then further consequential action shall be taken i.e. giving an opportunity to the petitioner to participate in the regular selection process by condoning her age and further by giving weightage to her past service and also to pay her salary for the period of service rendered by her in terms of communication dated 24.08.2010. Accordingly, the respondent authorities had paid salary to the petitioner for the period covering from 17.07.2001 to 30.11.2012, for a sum of Rs.17,98,046/-.

15. Admittedly, the petitioner is not in service since 30.11.2012. She has already filed one writ petition, being WP(C) No.1004/2013, for regularization of her service. And the same was disposed of by this Court vide order dated 20.02.2018, directing the Commissioner & Secretary to ascertain as to whether the name of the petitioner is there in the list of 22 numbers of Music Teachers, in the letter dated 27.12.2012, of the Deputy Director of Secondary Education and if it is there then to take

consequential action such as, giving an opportunity to the petitioner to participate in the regular selection process by condoning her age and further by giving weightage to her past service and also to pay her salary for the period of service rendered by her in terms of communication dated 24.08.2010.

16. Thus, it becomes apparent that the prayer for her regularization has already been adjudicated by this court in terms of direction discussed in the foregoing paragraph. Now, same prayer is being made again in the present petition. Mr. Khataniar, learned standing counsel for the respondent Nos. 1 to 3 has pointed out during argument that having been adjudicated the claim of the petitioner in earlier round of litigation, the claim for regularization so made in the present petition is barred by the principle of res-judicata.

17. The rule of res-judicata is meant to give finality to a decision arrived at after due contest and after hearing the parties interested in the controversy. It is well settled that the 'Doctrine of Res-judicata' is applicable in case of writ proceeding also. Reference in this context can be made to a decision of Hon'ble Supreme Court in **Gulabchand Chhotalal Parikh vs. State of Bombay (now Gujarat)** reported in AIR 1965 SC 1153, wherein dealing with the issue, it had relied upon its earlier decision in the case of **Daryao and Others vs. The State of U.P. and Others**, reported in AIR 1961 SC 1457, wherein a Constitutional Bench had summarized the principle as under:-

- (i) If a petition under art. 226 is considered on the merits as a contested matter and is dismissed, the decision would continue to bind the parties unless it is otherwise modified or reversed by appeal or other appropriate proceedings permissible under the Constitution.
- (ii) It would not be open to a party to ignore the said judgment and move this Court under art. 32 by an original petition made on the same facts and for obtaining the same or similar orders or writs.

- (iii) If the petition under art. 226 in a High Court is dismissed not on the merits but because of the laches of the party applying for the writ or because it is held that (1) [1961] S.C.R. 96. the party had an alternative remedy available to it, the dismissal of the writ petition would not constitute a bar to a subsequent petition under art. 32.
- (iv) Such a dismissal may however constitute a bar to a subsequent application under art. 32 where and if the facts thus found by the High Court be themselves relevant even under art. 32.
- (v) If a writ petition is dismissed in limine and an order is pronounced in that behalf, whether or not the dismissal would constitute a bar would depend on the nature of the order. If the order is on the merits, it would be a bar.
- (vi) If the petition is dismissed in limine without a speaking order, such dismissal cannot be treated as creating a bar of res judicata.
- (vii) If the petition is dismissed as withdrawn, it cannot be a bar to a subsequent petition under art. 32 because, in such a case, there had been no decision on the merits by the Court.

18. In view of above factual as well as legal position, I find force in the submission of Mr. Khataniar the learned standing counsel for the respondent authorities. The issue of regularization of service of the petitioner, so raised in the present petition, was directly and substantially in issue in the previous writ proceeding, being WP(C) No.1004/2013. Therefore, the issue of regularization cannot be re-opened now in the present proceeding. Moreover, the alleged termination order of the petitioner, though said to be illegal and arbitrary yet the same was not put to challenge either in present writ proceeding or in the earlier writ proceeding being WP(C) No.1004/2013. In that view of the matter, this court is of the considered opinion that the ratio laid down in the case of **Shripal (supra)** would not come into the assistance of the petitioner. Similarly, the order dated 20.03.2012 (Annexure-10A) in WP(C) No. 3674/2011, filed by the petitioner namely, Ranjita Sarma also would not advance the case of the petitioner, even though she is similarly situated

with Ranjita Sarma in view of issue being already adjudicated in the earlier round of litigation i.e. in WP(C) No. 1004/2013.

19. Now, there remains to be dealt with the alternate prayer, so made by the petitioner to direct the respondents to grant voluntary retirement/compulsory retirement to the petitioner w.e.f. 01.12.2012, by molding the order dated 05.11.2012 and to grant consequential benefits such as GPF, GIS, leave salary, gratuity, commutation of pension, MACPS/ACPS, arrear salary, arrear pension, etc. within a specific period.

20. Chapter III of the Assam Service (Pension) Rules, 1969 provides for conditions of qualifying service. Rule 31 provides that the service of an officer does not qualify for pension unless it conforms to the following three conditions:-

- (i) The service must be under the government;
- (ii) The employment must be substantive and permanent;
- (iii) The service must be paid by the government;

Provided that the Governor may, even though either or both of condition (i) and (ii) are not fulfilled:-

- (i) Declare that any specified kind of service rendered in a non-gazette capacity shall qualify for pension, and
- (ii) In individual cases and subject to such conditions as he may think fit to impose in each case allow service rendered by an officer to count for pension.

21. In the instant case, the petitioner does not fulfill the second condition, though she fulfills the rest of the two requirements. Further, in order to receive the benefit of voluntary retirement the petitioner has to render regular and continuous service for a period of 20 years, and she has to take voluntary retirement, in view of policy decision of the Government of Assam, titled "Pension and Other Retirement

Benefits” in the Resolution on the Report of the Assam Pay Commission 2008. In the case in hand, admittedly, the petitioner has rendered her service for only 18 years and that too as adhoc/temporary employee. Her service was not regularized. Having not been regularized her service, she is not entitled to take voluntary retirement and to receive the pensionary benefits such as GPF, GIS, leave salary, gratuity, commutation of pension, MACPS/ACPS etc.

22. Under the given facts and circumstances, the prayer of the petitioner for regularization of her service or in alternate to grant her voluntary retirement and pensionary benefits cannot be granted to the petitioner under the existing legal framework for non-fulfillment of the requisite criteria to avail such benefits.

23. It is to be noted here that Rule 235 of the Assam Services (Pension) Rules, 1969 provides as under:-

“Where the Governor of Assam is satisfied that operation of any of these rules causes undue hardship in any particular case, he may dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner provided that the case shall not be dealt with a manner less favourable than that provided in these rules.”

24. It has already been noted above that proviso to Rule 31 of the Assam Services (Pension) Rules, 1969 provides that **“The Governor may, even though either or both of condition (i) and (ii) are not fulfilled:-**

- (i) Declare that any specified kind of service rendered in a non-gazetted capacity shall qualify for pension, and**
- (ii) In individual cases and subject to such conditions as he may think fit to impose in each case allow service rendered by an officer to count for pension.**

25. Although, under the existing legal framework, the alternative relief of pension and pensionary benefits, as prayed for, cannot be granted to the petitioner, yet, under the given facts and circumstances and also taking note of the aforementioned rules i.e. Rule 235 as well as proviso to Rule 31 of the Assam Services (Pension) Rules, 1969, this Court is inclined to dispose of this petition by granting liberty to the petitioner to approach the Director of Secondary Education, Assam to file a representation addressing the Governor of the State, for consideration of invocation of the power provided under Rule 31 as well as Rule 235 of the Assam Services (Pension) Rules, 1969. It is further provided that on receipt of such representation, the Director of Secondary Education, Assam shall ensure that the application is forwarded to the Office of the Governor of the State as per procedure and thereafter, the Secretariat of the Governor shall do the needful for kind consideration of the Hon'ble Governor in view of Rule 235 as well as proviso to Rule 31 of the Assam Services (Pension) Rules, 1969, whichever is applicable.

26. In terms of above, this writ petition stands disposed of. The parties have to bear their own cost.

JUDGE

Comparing Assistant