



GAHC010202862017

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

**Case No. : WP(C)/6427/2017**

MS. JUNU DAS  
VILL- MOIRAMARA WARD NO. 3, P.O. HOWLI DIST. BAKSA BTAD, ASSAM  
PIN-781316.

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE COMMISSIONER and SECRETARY EDUCATION DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM  
KAHILIPARA  
GUWAHATI-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BARPETA  
P.O. HOWLI DIST. BAKSA  
BARPETA

4:THE TREASURY OFFICER

BARPETA/BAKSA BTAD

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BAKSA DIST.  
MUSHALPUR - 78131

**Advocate for the Petitioner : MS.P SAHA**



**Advocate for the Respondent : SC, BTC**

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER(ORAL)**

**Date : 28-04-2023**

Heard Mr.R. Sarma, the learned counsel appearing on behalf of the petitioner. Mr. P.N. Sarma, the learned counsel appears on behalf of the respondent Nos. 1, 2 & 3, Mrs. R.B. Borah, the learned counsel appears on behalf of the respondent No.5 and Mr. R.Borpujari, the learned counsel appears for the respondent No. 4.

2. The issue involved in the instant writ petition relates to the payment of the salary to the petitioner which admittedly the petitioner has not received since the date of her appointment.

3. It appears from a perusal of the writ petition that the petitioner claims to have appeared in a selection process, pursuant to an advertisement and the petitioner was appointed by the District Elementary Education Officer as Assistant Teacher in the scale of pay of Rs.3130/- to 6,600/- per month plus other allowance as admissible under the Rules and was posted at Kaurpara ME School vide one Matiar Rahman, Assistant Teacher transferred. It further reveals



that the Secretary to the Government of Assam, Education Department had directed the District Elementary Education Officer, Barpeta with a request to release the payment of salaries of 58 number of teachers in ME Schools and as per the list enclosed, the petitioner's name appears at Serial No. 54. However, the petitioner did not receive the salary and continued to render her services.

4. It further appears from the contents of the writ petition that some verification proceedings were initiated by the State Government and the petitioner was issued a notice on 1/11/2014 in connection with irregular/illegal appointments during the period from 1991 to 2001. It is the case of the petitioner that as the petitioner had rendered from 1999 till 2017, the petitioner is entitled to the salary for this period. Being aggrieved by the inaction on the part of the respondent authorities in not making payment of the salary, the petitioner approached this Court by filing the instant writ petition in the year 2017.

5. It appears from the records that this Court vide an order dated 30/10/2017 issued notice. The records further reveals that the Director of Elementary Education had filed an affidavit-in-opposition on 6<sup>th</sup> of April, 2022. In paragraph 7 of the said affidavit-in-opposition, it was stated that the School wherein the petitioner was appointed on 6/12/1999 fell with the jurisdiction of



Bodoland Territorial Area District (BTAD). It was mentioned that the petitioner's appointment as Assistant Teacher at Kaurpara ME School was an illegal appointment for which the petitioner did not receive the salary. It was further stated that although in the Government's order dated 21/12/2000 there was a direction for payment of salary to 58 numbers of ME School Teachers wherein the petitioner's name was included at Serial No. 54, but the school against which the petitioner's name was shown was one Adarsha Vidyapith ME School which was not in terms with the appointment letter of the petitioner. The Director of Elementary Education further stated in the affidavit that the District Elementary Education Officer, Barpeta wrote a letter to the Treasury Officer, Barpeta dated 9/4/2001 to release the salary of the petitioner. The said letter dated 9/4/2001 issued by the District Elementary Education Officer, Barpeta was followed by another letter to the Treasury Officer, Barpeta dated 13/6/2001 whereby the said official corrected the name of the school.

6. It was further mentioned in the affidavit-in-opposition that a Screening Committees was constituted for the purpose of screening the irregular/illegal appointed teachers working in the Lower Primary and Upper Primary schools of Assam vide an office order dated 15/11/2011 by the Govt. of Assam in the Elementary Education Department. Accordingly, advertisements dated 1/2/2012 and 4/2/2012 were issued. It was in pursuance to the said process of



verification that the letter dated 1/11/2014 was issued to the petitioner to appear before the Screening Committee for verification of the records. It was further mentioned that a list of teachers/tutors for accommodation of illegal/irregular teachers was issued by the Elementary Education Department, Assam to the Director of Elementary Education on 21/1/2021. However in the said list the petitioner's name did not appear. It was further mentioned that the entire matter of illegal/irregular teachers had been centrally dealt with by the Government in the Elementary Education Department. It was also mentioned that as per the report of the DEEO, Barpeta the original joining letter of the petitioner had been seized by the Chief Minister's Special Vigilance Cell on 6/7/2012.

7. To the said affidavit-in-opposition filed by the Director of Elementary Education, an Affidavit-in-Reply was filed by the petitioner on 8/6/2022. In the said Affidavit-in-Reply, it was reiterated that the petitioner was regularly appointed by the authorities under the Government of Assam but she was not paid her salary for no fault of her. It was mentioned that it is incumbent upon the respondents to release her salary as she had suffered a lot due to non payment of her for such a long period of time since 1999. It was further mentioned that the appointment letter dated 6/12/1999 amply testifies that the petitioner was regularly appointed teacher after a proper selection process and

the Annexures B, C & D to the writ petition clearly goes to show that the petitioner was entitled to the salary. It was further mentioned that the non-inclusion of the name of the petitioner in the list mentioned at paragraph No. 11 of the Affidavit-in-Opposition filed by the Director of Elementary Education is also an ample testimony that the petitioner was not an illegal teacher which is strongly supported by Annexure-A ( Appointment letter dated 6/12/1999) and therefore it was extremely misleading to say that the petitioner's appointment was illegal.

8. This Court further finds it relevant to take note of certain developments which took place while conducting the hearing of the present writ proceedings. On 23/1/2023, when the matter was listed, this Court enquired with the learned Standing Counsel for the Elementary Education Department as to why the petitioner has been considered as an illegal teacher by the District Elementary Education Officer, Barpeta as reflected in Annexure-II of the Affidavit-in Opposition filed by the Director of Elementary Education. The Standing Counsel appearing on behalf of the Elementary Education Department has produced the instructions dated 20/1/2023 issued by the Director of Elementary Education. However, the said being instructions being vague in respect to the query so made, this Court directed the Elementary Education Department to obtain instructions as to what had happened pursuant to the verification of the records



of the petitioner and whether the petitioner was duly intimated about her termination from her service, inasmuch as, a termination order kept in the file cannot be said to be a termination in accordance with law.

9. When the instant writ petition was again listed on 15/2/2023, the Standing Counsel for the Elementary Education placed on record another instruction dated 9/2/2023 alongwith a communication issued by the Deputy Secretary to the Government of Assam, Department of School Education to which there is a list of illegal teachers to be filled up in the District personnel as well as the cabinet memorandum. The petitioner's name appeared in the said list. It was further submitted during the course of the hearing, that as the petitioner was never paid salary since the date of her alleged appointment, the question of creating a supernumerary post for the purpose of payment of salary to the petitioner did not arise. This Court taking into account the specific stand of the Elementary Education Department directed the Elementary Education Department to file an affidavit so that the petitioner could rebut to the same.

10. Accordingly, on 20/3/2023 an additional affidavit was filed by the Secretary to the Government of Assam, Department of School Education. A perusal of the said Additional Affidavit shows that in terms with the order dated 2/3/2010 passed by this Court in W.P.(C) No. 1048/2004, the Education

Department placed the matter of regularisation of the illegal/irregular teachers before the Cabinet in its meeting dated 26/2/2011. The Education Department proposed to constitute a Screening Committee to examine the validity of the appointment of the teachers who are claiming regularisation and salary. Accordingly, an Office Memorandum dated 15/11/2011 was issued whereby a Screening Committee was constituted to examine the cases of illegal/irregular appointed teachers so as to take a decision for their regularisation and entitlement of salary or otherwise. In order to examine the selection procedure, the committee decided to examine the nature of appointment, status of the post, working status, status of salaries, academic qualification etc. The Director of Elementary Education thereupon invited applications from the irregularly/illegally appointed teachers during the year 1991 to 2001 through out the State vide advertisements dated 1/2/2012 and 4/2/2012 in local newspapers.

11. Pursuant to the said advertisement, various applications were received from illegally/irregularly appointed teachers through out the State who were appointed during the year 1989 and from 1991 to 2001. After carrying out a preliminary examination at the Directorate level, a total of 12085 numbers of applications were found in order and the same were submitted to the Government for final verification. Thereupon the Elementary Education



Department vide notification dated 4/6/2014 constituted 5 Screening Committees headed by the Divisional Commissioners concerned and the Principal Secretaries of the 6<sup>th</sup> Schedule areas and BTC to examine these applications and to submit reports. The said 5 Screening Committees were :-

- I. Upper Assam Division
- II. Lower Assam Division
- III. North Assam Division
- IV. Hills and Barak Valley Division.
- V. BTC Area.

12. It was mentioned that the petitioner had also participated in the said screening process pursuant to the receipt of the notice dated 1/11/2014. Thereupon the Divisional Screening Committees so constituted verified all the applications and submitted their reports with recommendations/views to the Government for further action. It was also mentioned that due to certain complaints from various corners, the Government directed for re-verification in respect to some of the districts. The respective Screening Committees after causing re-verification submitted their reports to the Government. After verification of the reports of the Divisional Screening Committees, the following categories of teachers were indentified :

Category I -- Recommended and working till date -- 136

Category 2 --- Recommended but discontinued jobs --250

Category 3 --- Not recommended but working till date --8470

Category 4 --- Not Recommended and discontinued jobs --2900

13. Pursuant to the reports submitted by the Divisional Screening Committees, a decision was taken to regularise the services of the teachers who fell in Category 1 and subsequently their services were regularised. As regards those in the Category 2, the question of regularisation of their service did not arise taking into account that they did not continue in the jobs. As regards the Category 4, the question of regularisation and payment of salary did not arise as they were neither recommended nor continued in the jobs. However, the issue pertaining to the Category 3 remained to be decided as to what steps were required to be taken taking into account that they were not recommended but were working. Under such circumstances, a decision was taken by the State Government to issue individual show cause notices to all the 8470 candidates and 766 including 752 terminated teachers of Dhemaji and Lakhimpur districts indicating therein to show the reasons as to why their appointments are not deemed to be illegal/irregular and as to why they should not be removed from services for being appointed in violation of the existing Rules.

14. Although the Government took the decision to issue show cause notices but in the meantime a discussion was held between the Minister of Education,

Government of Assam and the Teachers' Association or irregular/illegal teachers.

As per the decision in the meeting and as per the suggestion of the Minister of Education, the Department proposed to take a decision to solve the problems of these irregularly/illegally appointed teachers subject to the approval of the Cabinet. Accordingly, a departmental committee was formed by the Government to verify the salary status and qualifications of those Category 3 illegal/irregular appointed teachers. The teachers in the Category 3 were further bifurcated into 3 lists.

**List -1** were the teachers who have received salaries at some point of time and had the qualification of JBT/D.El.Ed. The total numbers of such teachers found in List-1 was 1574.

**List-2** were those teachers who have received salaries at some point of time but not having JBT/D.El.Ed. In the said list, the number of teachers included was 2960.

**List-3** were those teachers who neither received salaries nor qualified the training i.e. JBT/D.El.Ed. In the said category there were 7250 teachers.

15. In order to resolve the said issue, the department decided to prepare a cabinet memorandum for placing it before the Cabinet. The proposal so submitted by the Education Department were :

(a) Approval sought for accommodating those teachers who had received salary upto 2007 and had successfully completed the Junior Basic Training/D.El.Ed. course by creation of personal/supernumerary post with prospective effect from the date of approval of the cabinet. Those supernumerary post would cease to exist as and when the incumbent retires from service (i.e. List 1 as Teacher).

(b) Approval was sought for those who received salary upto 2007 but had not acquired the professional qualification. It was mentioned that in terms with the Assam Education (Provincilisation of Services of Teachers and Re-organisation of Educational Institutions) Act,2017, the teacher who did not acquire the professional qualification, their job could only be provincialised as tutor. Accordingly, it was proposed that these teachers could only be accommodated as tutors with prospective effect from the date of approval of the cabinet (i.e. List 2 as Tutor).

16. It is relevant to take note of that there was no proposal so submitted to the Cabinet in respect to those teachers coming within the fold of List 3 i.e. who neither received any salary nor qualified with the training i.e. JBT/D.El.Ed. In respect to the petitioner, it was further mentioned at paragraph No. 10 of the additional affidavit that the name of the petitioner was found in the Screening



Committee's report under Barpeta district and not Baska district and as per the Screening Committee's list under Barpeta district the petitioner had neither received any salary nor had completed the Junior Basic Training and therefore she did not fulfill the criteria laid down in the cabinet memorandum for which the petitioner's case could not be considered for accommodation as teacher/tutor with prospective effect pursuant to the cabinet approval dated 7/10/2020. The Screening Committee's report insofar as the petitioner is concerned was enclosed as Annexure-A to the additional affidavit.

17. The petitioner upon receipt of the said additional affidavit file an Affidavit-in-Reply to the Additional Affidavit on 28/3/2023. In the said affidavit-in reply, it was mentioned that it is on record that the petitioner was appointed through a regular selection process conducted by the respondents and the petitioner having rendered services sincerely and diligently from the date of her appointment till the date of superannuation without having been paid her salary, in spite of their being communications amongst the respondents for release of her salary, the actions of the respondents not to release her salary was arbitrary. It was mentioned that the petitioner had also participated in the verification process as was called by the respondents and the petitioner was never informed anything about her appointment being illegal during the whole span of her career from the date of appointment till the date of superannuation.

It was further mentioned that there was no justifiable and tenable reasons for declaring the petitioner's appointment as illegal and this very aspect was never intimated to the petitioner during the whole span of her career which the petitioner for the first time came to learn on the basis of an additional affidavit. It was further mentioned that obtaining a B.Ed degree is not possible without the respondent authorities issuing directions/instructions for the same and providing facilities for pursuing the same and it is a case of total perversity that the petitioner's appointment have been categorized as illegal on the aspect that the petitioner's name was found in the Barpeta district and not in the Baska district. It was mentioned that in the year 1999 when the petitioner was appointed, the school was within the limits of Barpeta district and subsequently with the formation of Baska district, it came to be in Baska district. It was further mentioned that finding the petitioner's name in Baska or Barpeta district cannot render the appointment of the petitioner illegal.

18. I have heard the learned counsel for the parties.

19. The question which arises for consideration on the basis of the materials on record and the relief sought for in the writ petition is as to whether the petitioner is entitled to the salary for the period from the date of her appointment i.e. 6/12/1999 till her alleged date of retirement in the year 2021.

It may not be out of place to take note that the petitioner though as submitted by the counsel for the petitioner that the petitioner retired in the year 2021 but has not been issued any superannuation notice. Mr. R. Sarma, the learned counsel however submitted that the petitioner was verbally informed that she would retire in the year 2021 and it is on account of the pendency of the writ petition, no superannuation notice was issued.

20. Be that as it may, it is relevant to take note of that this Court in exercise of the power under Article 226 of the Constitution would be in a position to issue a writ in the nature of mandamus for the purpose of directing the respondents to release the salary of the petitioner, provided that it is found that the petitioner was entitled to salary for the period she claims to be rendering service in connection with the affairs of the respondent Department. It is no longer res integra that the right to salary would depend upon an appointment being given to the person in accordance with law. Therefore, it is only in respect to a valid legal appointment, the right to salary accrues and a corresponding duty is there upon the Respondent State to pay the salary and denial or deprivation of the salary in such case would render the action of the Respondent State arbitrary and unreasonable which would violate the mandate of Article 14 of the Constitution. This Court in exercise of the powers under Article 226 of the Constitution in such circumstances would be justified to issue

a writ of mandamus or any other appropriate writ, direction or order thereby compelling the Respondent State to pay/release the salary to the employee.

21. In the backdrop of the above proposition, let this Court analyse the case of the petitioner. Annexure-A to the writ petition is the only document placed on record to show that the petitioner was appointed as an Assistant Teacher by the then District Elementary Education Officer on 06/12/1999. At that relevant point of time, the applicable statute was the Assam Elementary Education (Provincialisation) Act, 1974(hereinafter for short referred to as 'the Act of 1974'). The said Act of 1974, was enacted to provincialise the services of the teachers of elementary schools including the pre-Primary schools and the employees of the respective Board. In terms with Section 27 of the Act of 1974 the State Government have been empowered to make Rules for carrying out the purpose of the said Act of 1974. In exercise of the said powers, the Assam Elementary Education (Provincialisation) Rules, 1977(hereinafter for short referred to as 'the Rules of 1977') was made providing for the method of recruitment, payment of liabilities of the Board and management of elementary schools etc. As the date of appointment of the petitioner as could be seen from Annexure-A is 6/12/1999, it would be relevant to take note of the Rules of 1977 as it stood prior to 2005 inasmuch as after 10/11/2005 and 25/10/2012 there have been major changes brought to the Rules of 1977 by amendments.





22. The Rules of 1977 provides the methods of recruitment, payment of liability of the Board and the management of the elementary schools etc. Rule 3 as it stood prior to the Amendment dated 10.11.2005 stipulates the method of recruitment. In terms with Rule 3 (i) which stipulates the method of recruitment, the Deputy Inspector of Schools in the month of January every year shall invite applications in prescribed form for vacancies of Elementary School Teachers which is likely to occur in the year in his establishment. The qualification was stipulated in Rule 3 (iii) of the Rules of 1977 to be (a) Matriculation/High School/School Leaving Certificate Examination or any other examination of equivalent standard shall be the minimum qualification for the post of teacher in Lower Primary and Junior Basic Schools preference being given to candidates trained in Senior Basic, Normal and Junior Basic Training Courses and (b) For M.V. and Senior Basic Schools, qualification shall be Matric, Normal or P.U. or intermediate or its equivalent.

23. Rule 3 (v), (vi) , (vii), (viii) and (ix) as stood on 23.06.1979 and prior to 10.11.2005 are reproduced herein below :-

*“(v) There shall be a Selection Committee in each Educational Sub-Division to be constituted by the Sub-Division Level Advisory Board for Elementary Education. The Chairman of the Sub-Division Level Advisory Board for Elementary Education and the D.I. of Schools shall be the Chairman and Secretary of the Selection Committee respectively.*

(vi) On receipt of applications, the Selection Committee shall scrutinize the mark sheets and other necessary testimonials of the candidates and prepare a list of

*candidates for interview by the Selection Committee.*

*The selection Committee shall then finalise the list of successful candidates in order of merit after interview and shall put up the list before the Board for approval. While approving the list before the Board for approval, the Board shall be guided by the declared policies of the Government and instructions issued by the Government from time to time. After approval of the list by the Board the same shall be sent to the Director of Elementary Rules and Government instruction for the time being in force. The Deputy Inspector of Schools will appoint the selected candidates in order of merit from the list approved by the Director of Elementary Education as and when required as per instructions for the time being in force. The list shall be valid for one year unless its validity is extended by Government.*

**(vii) Reservation**

*There shall be reservation of posts for Scheduled Castes and Scheduled Tribes as per rules made by Government from time to time.*

**(viii) Physical fitness.**

*(a) A candidate shall be of sound health both physically and mentally and free from organic defects or bodily infirmity likely to interfere with his/her duties.*

*(b) A candidate shall be required to undergo medical examination and to produce a medical certificate of fitness.*

*(ix) An appointed candidate may be required to undergo such in-service training as Government may decide from time to time."*

24. Rule 4 of the Rules of 1977 as it stood in the year 1979 stipulates that except as otherwise provided in the Act and the Rules all matter relating to pay, allowances, leave, pension discipline and other conditions of service shall be regulated by the general rules framed by the Government from time to time.

Rule 4 of the Rules of 1977, being relevant is quoted herein below:-

*"4. Other provisions relating to candidates for services. Except as provided otherwise in the Act and in these rules all matters relating to pay, allowances, leave, pension, discipline and other conditions of service shall be regulated by the general rules framed by the Government from time to time."*

25. Therefore, from a reading of Rules 3 & 4 of the Rules of 1977 as it stood as on 22.06.1979 and prior to 10.11.2005, it would be seen that upon application



being invited by the Deputy Inspector of Schools, the Selection Committee so formed in terms with Rule 3 (v) shall scrutinize the mark sheets and other necessary testimonials of the candidates in and prepare a list of candidates for interviews by the Selection Committee. Thereupon, the Selection Committee shall finalize the list of successful candidates in order of merit after interview and shall put

the list before the Board for approval. The Board, while approving the list, shall be guided by the declared policies of the Government and the instructions issued by the Government from time to time. After approval of the list by the Board, the same shall be sent to the Director of Elementary Education for his final approval. The Deputy Inspector of Schools will then appoint the selected candidates in order of merit from the list approved by the Director of Elementary Education as and when required as per the Government Rules and Government instructions for the time being in force. Rule 3 (ix) is pertinent in as much as it stipulates that an appointed candidate may be required to undergo such in-service training as Government may decide from time to time. This Rules makes it clear that the Training is a follow up to an appointment to a vacant sanctioned post to the services of the Government.

26. From the above, it would be seen that a detailed procedure has been stipulated as to how the selection proceedings would be initiated and

culminated. It is very pertinent to mention that Rule 3(vi) of the Rules of 1977 as it stood prior to 10/11/2005 clearly mandated that the appointments would be made by the Deputy Inspector of Schools in order of merit from the list approved by the Director of Elementary Education. Further to that, if the Rules of 1977 are perused after the amendments carried out in the year 2005 and 2012, it would be seen that the 'DEE', defined as the Director of Elementary Education in terms with Rule 2(iv) of the Rules of 1977, would be the appointing authority. This Court further in order to clarify as to whether the District Elementary Education Officer was the appointing authority in terms with the Rules of 1977 at any point of time, enquired with the learned counsels for the petitioner as well as the respondents. However, no provision was shown that the District Elementary Education Officer was an Appointing Authority at any point of time in terms with the Rules of 1977. Under such circumstances, the order of appointment dated 6/12/1999 in favour of the petitioner having been issued by the District Elementary Education Officer, the same was not in accordance with the Rules of 1977 so also the Act of 1974.

27. This Court finds it relevant to take note of another set of Rules known as the Assam Elementary Education (Provincialisation) Service and Conduct Rules, 1981(hereinafter in short referred to 'as the Rules of 1981'). These Rules were framed in exercise of powers under Section 27(1) of the Act of 1974 to regulate

the service condition of Elementary School Teachers and Employees. In terms with Rule 3(vi) of the Rules 1981 the recruitment to the post of the teachers in the Elementary School shall be made under the provisions of Part-1 of Rule 3 of the Rules of 1977. It is also relevant to take note of Rule 3(v) of the Rules of 1981 which mandates that the teachers on appointment should be required to undergo Junior Basic or Normal Teachers' Training course or any other training recognized by the Government.

28. Rule 4 of the Rules of 1981 relates to confirmation. In terms with the said Rule subject to availability of a permanent vacancy, every member of the service shall be confirmed in the cadre/class/grade to which he/she is appointed substantively if he/she has completed at least 3 years of continuous service after provincialisation or he/she has successfully undergone necessary training as may be prescribed by the department and facilities for which have been offered to him/her by the department during the period of 3 years. The first proviso to Rule 4(b) of the Rules of 1981 further stipulates that those teachers who have completed 45 years of age or have completed 3 years of continuous service after provincialisation but no facilities have been provided to him/her for the prescribed training, his/her service will be confirmed, provided there is nothing adverse against him/her. Further to that, the second proviso to Rule 4(b) of the Rules of 1981 stipulates that all teachers whose services have been



confirmed and approved by the State Board or the Regional Board prior to 5/9/1975 shall be deemed to be confirmed duly with effect from the date of such confirmation. In terms with Rule 5 (b) of the Rules of 1981 all matters relating to pay, allowances, leave, pension, discipline and other conditions of service shall be regulated by the general Rules framed by the Government from time to time.

29. Therefore, from the above provisions of the Rules of 1981, it would be seen that a person upon being appointed in terms with the Rules of 1977 would be facilitated by the respondent authorities to undergo a training and upon qualifying in such training, the person concerned would be confirmed by virtue of Rule 4(b) of the Rules of 1981. Otherwise, if no training is facilitated for a period of three years, the person would have a right to be confirmed provided there is nothing adverse against the employee. However, from the records, nothing is available which would show that the petitioner was sent for training or the petitioner was confirmed even otherwise. It would also be seen that there are no materials to show that the petitioner was at any point of time was given any of the benefits as mentioned in Rule 5(b) of the Rules of 1981.

30. In that view of the matter and taking into consideration that the appointment letter dated 6/12/1999 so issued was not by an authority



competent under the Rules of 1977 to do so and there being no materials which would show that the petitioner was appointed as per the mandate of law above referred, this Court is not in a position to issue a writ in the nature of mandamus to compel the authorities to release the salary for the period from 6/12/1999 to the date of alleged superannuation of the petitioner.

31. In that view of the matter, the instant petition stands dismissed. However, in the present facts, this Court is not inclined to impose costs.

**JUDGE**

**Comparing Assistant**