

**Rekha Devi Vs. State of Assam**

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**SooperKanoon Citation :** [sooperkanoon.com/1115818](http://sooperkanoon.com/1115818)

**Court :** Guwahati

**Decided On :** May-10-2011

**Judge :** B.D. Agarwal

**Appeal No. :** No.

**Appellant :** Rekha Devi

**Respondent :** State of Assam

**Advocate for Pet/Ap. :** Mr. AK Maheswari

**Judgement :**

(1.) Heard Mr. AK Maheswari, learned counsel for the petitioner and Mr. S. Munir, learned Govt. counsel appearing for the official respondents.

(2.) This writ petition has been filed with a limited prayer to direct the respondents to pay the arrear as well as current salary on the premise that she was appointed as Assistant teacher in the year 1989 and thereafter she joined the said post at Khajua Block LP School on 1.1.90. According to the petitioner, she is working in the said school from 1.1.90 till date and despite that the respondents stopped her salary intermittently. According to the petitioner, for non payment of the salary, a writ petition was filed in the year 1990 being CR No. 1759 of 1990. While disposing of the said writ petition, this court directed the Govt. to clear the pay and allowance for the period they have rendered service in the respective schools. After the aforesaid order, the Govt. terminated the services of good number of

teachers and again stopped salary of the petitioner from 1994, which prompted the petitioner and few other teachers to file another writ petition, being CR No. 4971 of 1994. The said writ petition was disposed of by this court on 14.2.96 directing the respondents to examine if other teachers appointed by the same order were regularized in the service, the petitioner shall also be given the same benefit. This court also observed that if the petitioners were terminated from the services without any notice, such termination order shall stand set aside.

(3.) According to the learned counsel, despite the aforesaid order dated 14.2.96, salary was not paid, which compelled the petitioner to file another writ petition being CR No. 3103 of 1998. During this period, the Govt. had advertised for filling up the few posts of Asstt. Teachers. Hence, the advertisement was also challenged. Accordingly, an interim order was passed to keep 12 posts of teachers vacant. After filing of the writ petition, the Govt. cleared the salary up to April, 2003 and thereafter the payment of salary was again stopped.

(4.) In the affidavit of the State respondents, it has been pleaded that the petitioner was released from service after payment of 29 months salary. However, a copy of the order of termination/discharge of the petitioner from service has not been annexed with the affidavit. Be that as it may, in the order dated 14.2.96 passed in CR No. 4971 of 1994 of 94, this court has observed that if the termination order was passed without any notice, the same shall stand set aside. Besides this, the petitioner has annexed a certificate from the Headmaster of Khajua Block LP School dated 14.8.2006 wherein the Headmaster has certified that the writ petitioner is performing her duty as Asstt. Teacher since 1.1.1990 till date.

(5.) In view of the aforesaid position, the respondents are hereby directed to make payment of entire arrear salary and also continue to pay current salary without any break, so long the petitioner is in service. An endeavour shall be made to clear the arrear salary within a period of three months from the date of receipt of a certified copy of this order.

(6.) With the aforesaid directions, the writ petition stands disposed of.