

<b>Case No.</b>	<b>KP(R). 231/2018</b>
<b>Complainant/ Appellant</b>	<b>Smti Minamoyee Sarma</b>
<b>Respondent</b>	<b>Commr. &amp; Secretary, Education (Secondary) Deptt.</b>
<b>Date of Hearing</b>	<b>29.05.2018</b>
<b>Complaint/ Second appeal heard by</b>	<b>Shri H. S. Das, IAS (Retd) State Chief Information Commissioner, Assam</b>

**O R D E R**  
**29.05.2018**

1. The petitioner Smti Minamoyee Sarma is present with her husband Sri Suren Ch. Sarma to help her. The public authority is represented by :- (i) Shri Joy Ram Hazarika, SPIO, Directorate of Secondary Education, Assam, Kahilipara, Guwahati-19, (ii) Sri Padma Kanta Sarma, SPIO, Secondary Education Department, Govt. of Assam, Dispur, Guwahati-6, and (iii) Sri Jajneswar Pathak, Assistant of the Department.

2. The second appeal petition dated 20-3-2018 is taken up for hearing in presence of both the parties.

3. From perusal of the case records it appears that the petitioner filed an RTI petition dated 15-12-2017 before the Commissioner & Secretary, Secondary Education Department. Her case in brief is that she was an Asstt. Teacher in Palasbari R.B.H.S and M.P School, Mirza. She superannuated from her service on 30-4-2016 and was sanctioned and paid earned leave salary encashment for 208 days on the basis of pre-revised pay scale. After her retirement the State Govt. revised the pay and allowances of the State Govt. employees with retrospective effect from 1-4-2016.

4. The petitioner submitted orally that following the pay revision she approached the Inspector of Schools , Kamrup (Metro) District for payment of her arrear earned leave salary encashment. Her request, as stated by the petitioner, was turned down by the Inspector of Schools, Kamrup (Metro) on the ground that payment of cash equivalent of leave salary is a one-time settlement and hence it cannot be re-opened. This led to file the RTI petition mentioned above, by which she wanted to know :-

- (i) *Whether she was eligible for un-availed Earned Leave salary encashment on the basis of the revised pay scale;*
- (ii) *In case, it is yes, then who will issue the relevant order for such arrear payments, and*

(iii) *If she is not eligible for un-availed leave salary encashment on the basis of revised pay scale, then copy of Govt. order to that effect.*

5. The appeal petition was transferred by the Joint Secretary, Secondary Education Department to the Directorate of Secondary Education, Govt. of Assam vide letter dated 30<sup>th</sup> December, 2017. By another letter No. FEG.41/2008/248 dated 30<sup>th</sup> December, 2017 the SPIO and Under Secretary to the Govt. of Assam, Finance Estt.(A) Department in response to a separate RTI application addressed to them, furnished a copy of Finance Estt (A) Department's O.M No. FEG.22/91/22 dated 7<sup>th</sup> April, 1997, which clearly brings out that the petitioner is entitled to her un-availed leave salary encashment on the basis of revised pay scales.

6. The FAA and Joint Secretary of the Secondary Education Department, Govt. of Assam has sent a written statement dated 29<sup>th</sup> May, 2018 narrating the action taken by them. The W/S is entered into the case records. The Asstt. Director and SPIO of the Directorate of Secondary Education, Assam also submitted a separate W/S dated 25<sup>th</sup> May, 2018 which is also entered into the case records. The SPIO of the Directorate of Secondary Education enclosed with his W/S a copy of the letter dated 27<sup>th</sup> March, 2018 addressed to the petitioner furnishing the sought for information. He also furnished to the petitioner Finance Department's O.M dated 7<sup>th</sup> April, 1997 mentioned above and Pension and Public Grievance Department's O.M No. PPG(P).140/2017/10 dated 12<sup>th</sup> July, 2017. The P&PG Department's O.M mentions that payment of leave encashment will continue to be admissible as per the existing provisions. It appears that the existing conditions are laid down in Finance Estt. (A) Department's O.M dated 7<sup>th</sup> April, 1997 mentioned above.

7. Therefore, the only question that remains to be settled is - who will sanction and pass necessary orders for payment of the arrear leave salary encashments.

8. The petitioner submitted orally that the leave salary encashment on the basis of pre-revised pay scale was sanctioned and paid by the Inspector of Schools, Kamrup (Rural). It is, therefore, obvious that it is the Inspector of Schools, Kamrup (Rural) who will have to pay the balance arrear amount on the basis of revised pay scale in compliance with Finance Department's O.M No. FEG.22/91/22 dated 7<sup>th</sup> April, 1997. When asked by this Commission the SPIOs of Secondary Education Department, Govt. of Assam and the Directorate of Secondary Education, Assam admitted that there may be similar pending cases of payment of arrear leave salary encashment on the basis of revised pay scale of employees/ teachers who retired on or after 1<sup>st</sup> April, 2016.

9. In view of the above, this Commission, in exercise of powers conferred under Section 19(a) read with Section 4(i)(c) of the RTI Act, 2005 directs the Director, Secondary Education, Govt. of Assam to issue appropriate instructions to all Inspector of Schools under their jurisdiction clarifying the correct position regarding drawl of leave salary encashment by teachers who retired on or after 1<sup>st</sup> April, 2016 with a copy to the petitioner.

10. With the above order the second appeal petition dated 20-3-2018 is disposed of.

**Sd/-**  
**(H. S. Das)**  
**State Chief Information Commissioner,**  
**Assam**

**Authenticated true copy**  
**Sd/-**  
**Registrar I/c**  
**Assam Information Commission**

**Memo No SIC/ KP(R).231/2018 /**

**A**

**Dated 29.05.2018**

Copy to:-.

- 1) Sri F.H. Choudhury, ACS, First Appellate Authority/ Joint Secretary to the Govt. of Assam, Secondary Education Department, Dispur, Guwahati-6 for information
- 2) SPIO & Asstt. Director, Secondary Education , Govt. of Assam, for information and necessary action as ordered above.
- 3) SPIO, of the office of Inspector of Schools, Kamrup (Rural), Amingaon, Guwahati-781 031 for information.
- 4) Smti Minamoyee Sarma, W/O Sri Suren Ch. Sarma ,Vill & P.O Rongamati, Dist-Kamrup (R), Assam, PIN-781122 for information.
- 5) Computer Section for uploading in the Website
- 6) Office file.
- 7) Order Book.**

**Registrar I/c**  
**Assam Information Commission.**