



**OFFICE OF THE
ASSAM INFORMATION COMMISSION**

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Case No. : SIC/DMJ.3 /2018
 Appellant : Sri Anil Ch. Gayan
 Respondent : The SPIO, O/o the Director of Secondary Education,
 Assam, Kahilipara, Guwahati- 19
 Date of hearing : 12.12.2018
 Second Appeal heard by : Sri Pinuel Basumatary, IA & AS (Retd.)
 State Information Commissioner, Assam

O R D E R
 12.12.2018

The Appellant, Sri Anil Ch. Gayan is present.

The SPIO and Deputy Director of Secondary Education, Assam has submitted a Written Statement dated 26.11.2018.

Perused the case record. The Appellant who is a Grade-IV employee of Batgharia H.S. School, Batgharia had submitted his RTI Application dated 05.10.2016 to the Secretary, Secondary Education Department, Assam seeking information relating to his post, retention thereof, and non-payment of his salary from 2004 to date. The Application was transferred by the Secretary of Secondary Education, Assam to the Director of Secondary Education Department, Assam. The Appellant received a copy of the letter dated 22.12.2016 from the Principal of the said school that contained the information he had sought for point by point. One of the information that was given to him was that the post he had occupied was a regular one. Thereafter, he submitted a petition dated 28.04.2017 to the Director, Secondary Education Department, Assam querying as to since when his salary would be paid regularly. The said petition was transferred by the SPIO, office of the Director of Secondary Education, Assam to the Inspector of Schools, DDC, Dhemaji through a letter dated 17.05.2017. In response to a reminder given by the Appellant through a letter dated 26.07.2017, the said SPIO issued another direction to the said Inspector of Schools through a letter dated 09.01.2018 to provide the information to the Appellant. Thereafter, the Appellant submitted an Appeal dated 23.04.2018 to the Commission stating that he had sought the information from the Director of Secondary Education as the latter was the competent authority for approving payment of his salary. He added that the Inspector of Schools had not provided him with any information. The Commission advised the Appellant through a letter dated 11.03.2018 to submit his First Appeal to the Appellate Authority where his RTI Application has been considered. Failing to receive the information he submitted his Second Appeal to the Commission dated 21.10.2018 on the ground that he had not received the information inspite of his First Appeal having been heard.

It is seen that the Appellant was not paid his salary since the month of March, 2004 for want of retention of the post and that approval from competent authorities regarding this was yet to be received. He further added in his deposition that he had been paid arrear salary for up to the month of February, 2004 pursuant on two orders of the Hon'ble Gauhati High Court where he had filed writ petition on the order of stoppage of his salary.

Heard the Appellant. He submitted that he was yet to be received the information as to from when his salary would be paid. He submitted that he had been paid his salary regularly from his appointment in 1994 until the issue of retention of his post was raised.

Perused the Written Statement. The fact of transfer of the RTI Application has been submitted.

After a careful consideration of the facts and circumstances found in the case record and the personal deposition by the Appellant, the Commission determines that the information sought for by him through his RTI Application has indeed been provided. The information he sought subsequent to receiving of the said information in response to his RTI Application does not strictly constitute information as defined by the RTI Act, 2005 for the reason that the same relates to a decision which is yet to be made by the competent authorities. In other words, the pending issue is a matter of grievance for the Appellant and this needs to be addressed by the competent authorities in the Government, and the Commission is of the view that as the matter relates to the approval of retention of a post that dates back nearly two decades, and the same has a bearing on livelihood of himself and his family, it would be an appropriate matter for the Secretary to the State Government to consider and issue necessary orders. Such action is called for in the interest of justice of a Grade-IV employee who has been serving the said school in the post continuously from his appointment way back in 1994. Perusal of the aforementioned court orders as produced by the Appellant before the Commission indicates that the Hon'ble High Court has indeed gone into the issue of necessity for the Government to consider payment of salary to the Appellant whose service is being continually utilized. However, the Commission has not taken the said court orders into record as the same is not directly related to the RTI Application.

In view of the facts brought out above, **the Commission hereby orders that the issue of retention/regularization of the post, appointment and payment of salary including arrear salary to Sri Anil Ch. Gayan, Grade-IV employee of Batgharia H.S. School, Batgharia, PO- Batgharia, Dist- Dhemaji be considered and an appropriate decision be made in the interest of justice to the said person within a reasonable time frame.**

With this, the Second Appeal is hereby disposed of.

Sd/-

Pinuel Basumatary IA & AS (Retd.)
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy

Sd/-
Joint Registrar
Assam Information Commission

Memo No. SIC/DMJ.3 /2018

Dtd.12.12.2018

Copy to:

1. The Commissioner & Secretary to the Government of Assam, Secondary Education Department, Dispur, Guwahati- 6 for information and necessary action.
2. The Deputy Director & SPIO, office of the Secondary Education Department, Assam, Kahilipara, Guwahati- 19 for information and necessary action.
3. The Inspector of Schools, DDC, Dhemaji, Assam for information and necessary action.
4. The First Appellate Authority/ Director of Secondary Education Department, Assam, Kahilipara, Guwahati- 19 for information.
5. The Principal, Batgharia H.S. School, PO- Batgharia, Dhemaji, Assam for information.
6. The Appellant, Sri Anil Ch. Gayan, Batgharia H.S. School, PO- Batgharia, PS & Dist.- Dhemaji, Assam, Pin- 787 057 for information.
7. Computer Section for uploading in the Website.
8. Office File.

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